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7 THE VIDEOGRAPHER: The deposition is being taken  
8 before Kate Knowlton, court reporter, who will now swear  
9 in the witness.

10 ORLANDO AYALA,  
11 having been first duly sworn, was examined and testified  
12 as follows:

13 EXAMINATION

14 BY MR. WALL:

15 Q. Good morning, Mr. Ayala.

16 A. Morning.

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24 Q. I'm not going to spend time telling you things  
25 that you already know in that case. I've placed before

1 you what has been marked as Exhibit -- Defendant's Exhibit

2 1301. That is the notice of deposition of Orlando Ayala.

3 Do you have that in front of you, sir?

4 A. Yes, I do.

5 Q. And you are appearing here today pursuant to

6 that notice of deposition and subpoena, are you not?

7 A. That's correct, I am.

8 Q. Okay. Mr. Ayala, could you please tell me what

9 your current title is at Microsoft?

10 A. I'm senior vice president for small and medium

11 business solutions group.

12 Q. And how long have you held that job?

13 A. About a year.

14 Q. And what did you do with Microsoft before that?

15 If you could just take me from the time you joined

16 Microsoft up to your present job, please.

17 A. I joined the company 1991 mostly to head the

18 Latin American division, nonexistent at that time. So I

19 was in charge of building that group. After that I moved

20 around the intercontinental group. That was as vice

21 president of intercontinental. That was mostly all

22 countries in the southern hemisphere.

23 Right after that, if I am not mistaken, in 1997

24 or so I moved to run the Americas. That includes North

25 America and Latin America and the South Pacific region,

1 which is kind of the composition at that time. And in  
2 1999 I was promoted to run worldwide sales of the company.  
3 And I did that for about three years. And after that I  
4 moved to the new job about a year ago.

5 Q. So you moved to the new job about a year ago.  
6 When you were the head of worldwide sales, could you tell  
7 me generally what the products were that you were in  
8 charge of selling for Microsoft?

9 A. All Microsoft products at that time, with the  
10 exception of MSN line, and the MBS line, and the XBox  
11 line. Those three. So all the other products included.

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20 Q. Okay. And how did it change -- with respect to  
21 MBS, and in particular the sales function of MBS, how did  
22 the organizational structure change?

23 A. We wanted to integrate or we have decided to  
24 integrate more of the MBS products in what we call the  
25 mainstream of the Microsoft Resources Center, resources in

1 the field. So that's how at that point in time it  
2 coincide actually with a change in how we run the company  
3 itself.

4 It used to be more like geography approach for  
5 selling. Now we are more self-contained in PNLs, in  
6 individual businesses, and MBS is one of those. So as  
7 soon as all of that change we rearchitected the way we run  
8 the field. And as part of that move then we decided to --  
9 I changed jobs to be more focused. So basically  
10 incubating the MBS business for Microsoft.

11 And as part of that I took responsibility of it.  
12 So basically the sales focus is a good marriage, a  
13 self-containing BSL force is a good marriage into the  
14 mainstream of the Microsoft sales resources mostly in the  
15 midmarket.

16 Q. Is that merge of the sales force complete now?

17 A. We are in the process of finalizing it. That's  
18 what it is.

19 Q. Okay. But if not right now, very soon the  
20 entire sales force for the MBS solutions will report to  
21 you?

22 A. Yeah, that's correct.

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2 Q. Okay. When is planning time at Microsoft?

3 A. Starts mostly in February and finishes about

4 this time, April or May.

5 Q. So when is the last time you had a session with  
6 either Mr. Raikes and Mr. Ballmer in connection with the  
7 planning process in which you discussed the business  
8 strategy for the MBS?

9 A. Let me think about that. I think the last one  
10 was with Steve about a month ago.

11 Q. And can you tell me how that happened? Was it a  
12 formal meeting or an informal meeting?

13 A. It's a formal meeting.

14 Q. Okay. And who else was in attendance?

15 A. I cannot recall everyone. Clearly Doug was in  
16 attendance, and all the direct reports of Doug, and some  
17 of my direct reports. I don't recall everyone.

18 Q. That's fine. Approximately how many people are  
19 we talking about?

20 A. 12, 13.

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5 Q. Could you give me just a summary of what your  
6 presentation was?

7 A. We are going through a rationalizing of product  
8 lines around the world. Since you know, we have different  
9 product lines in many different places. And so part of  
10 the process was to provide clarity around our approach for  
11 selling these products.

12 The other one was resources, organizational  
13 structures, all of that. Was most of the -- some of the  
14 compensation quotas. That's obviously the core of my  
15 presentation.

16 Q. What kind of quotas are you talking about?

17 A. Well, sales quotas for the teams. You know,  
18 what's the goals for the product teams or the selling  
19 teams moving forward.

20 Q. I've seen some references in some documents  
21 about the establishment of sales quotas specific to the  
22 sale of business applications to corporate accounts.

23 Were those established?

24 A. Yeah. They were actually the past year or two.  
25 We didn't make much progress, but they were there.

1 Q. What are the -- what are the quotas that have  
2 been established in that respect?

3 A. People get paid against selling MBS products for  
4 corporate accounts, as defined our taxonomy.

5 Q. Okay. Most of the time when -- at least when I  
6 hear the phrase quota, I think of that as some kind of a  
7 minimum requirement.

8 Is that how you use it?

9 A. You have to define minimum requirement for me.

10 Q. Well, that -- that if you do not make a certain  
11 number of sales within the definition of the quota, you do  
12 not get some part of your compensation?

13 A. That's a good interpretation.

14 Q. Okay. So how many salespeople does Microsoft  
15 have that are in whole or in part selling business  
16 applications into the corporate account space?

17 A. Fully indicated last year I think we -- we  
18 didn't extend more than -- and I'm including here our real  
19 focus which are in the midmarket. That's where we spend  
20 most of our resource. I would say in corporate accounts  
21 probably ten people.

22 Q. And --

23 A. Fully indicated to the MBS, meaning they don't  
24 have any other quotas. And in the SMS&P or in the small  
25 and medium business marketplace, I would say in the range



1 of probably 500. So they just -- those 500 are the ones

2 that are focus in the midmarket mostly.

3 Q. Okay. Microsoft's business applications

4 solutions are also sold through partners, are they not?

5 A. They are mostly sold through partners.

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21 Q. You mentioned a moment ago that the -- the  
22 taxonomy of customers. Were you referring to the  
23 difference between, for example, global, major and  
24 strategic accounts and corporate account space?  
25 A. Yes.

1 Q. Okay. Could you give me a high-level summary of  
2 the Microsoft taxonomy?

3 A. Yeah. We define as small or medium business,  
4 small business two employees to 50 employees, that range.  
5 Then we define from 50 to 500 what is -- 50 to 1,000  
6 employees what is midmarket. And then in corporate  
7 accounts we define 5,000, and the rest are basically what  
8 we call GSM. I don't recall exactly anymore exactly --  
9 about the top. I am not focus in the market.

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21 Q. Okay. So the -- we were referring before to the  
22 global, major and strategic accounts. And is it -- is it  
23 correct that in the way Microsoft uses that term that that  
24 refers to companies that on average have over 2500 PCs and  
25 over 5,000 employees?

① A. Generally that's correct.

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20 Q. Is it -- is it your understanding that Green  
21 refers to the existing products or to a new generation  
22 product?

23 A. New generation.

24 Q. Okay. And what is the relationship between the  
25 new generation and the existing products?

1 A. I don't understand the question. What do you  
2 mean by relationship?

3 Q. Is there -- to the best of your understanding,  
4 is there an intention to develop a new generation business  
5 applications product that encompasses the breadth of  
6 functionality of the existing Microsoft products?

7 A. I'm not exposed to the functionality of Green.  
8 I could not tell, because I am not really in charge of  
9 that element.

10 Q. Do you have any understanding at all of -- of  
11 what it is that you're going to have to sell once Green is  
12 available?

13 A. No.

14 Q. Mr. Ayala, have you heard it said that there are  
15 both hub and spoke business application solutions?

16 A. I know how we use the hub and spoke term.

17 Q. How do you use the hub and spoke term?

18 A. The way we use it is basically branches to a  
19 larger organization.

20 Q. That would be a spoke?

21 A. Spoke.

22 Q. And what's a hub?

23 A. Hub is basically the center, the center office.

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10 Q. Okay. So if somebody implements a spoke

11 solution on a branch basis or a division, whatever it may  
12 be, how does it connect to the hub?

13 A. There are many ways to connect. It's normal,  
14 you know, could be in our case I think we use a lot of XML  
15 standards to allow a lot of connectivity independently of  
16 what is at the hub. So I would say -- and you would have  
17 to define connection for me, because it's a very broad  
18 term, too. So what do you mean by connection?

19 Q. Well, what I mean by connection is allowing  
20 the -- the corporate headquarters to access and make use  
21 of the data that is -- is being collected and organized in  
22 the spoke system.

23 A. I would say in our case it's mostly XML  
24 enablement of all of our products so they can broadly  
25 communicate with many type of systems, no matter who or



1 what vendor is providing the solution at the center.

2 Q. Okay. So is it -- is it accurate to say,

3 Mr. Ayala, that some large organizations will -- will

4 solve their needs for business automation with a spoke

5 solution, and others will use a hub solution?

6 A. Yes, some companies have different approaches to

7 solve different problems.

8 Q. And Microsoft's strategy with respect to its

9 existing business applications business is to go for any

10 kind of spoke business it can find; correct?

11 A. Not correct.

12 Q. What kind of spoke business would Microsoft not

13 go after?

14 A. Generally is very hard to say all of them for

15 one reason. I think even segmentation is a point of

16 reference.

17 Q. I'm sorry?

18 A. Even segmentation is a point of reference. So I

19 can find places even in midmarket where probably our

20 solution will not fit based on customers unique

21 requirements. So it really depends on what the customer

22 has, and if our products can fit well, scalability or any

23 other type of requirements of that spoke.

24 Q. Okay. In terms of spoke business, is there

25 any -- is there any way for you to describe for me on

1 objective terms the kinds of spoke business that Microsoft  
2 will not go after today?

3 A. We provide -- are setting up to our team -- for  
4 our teams a resource that allows them really to use, to  
5 determine with clarity. At this point in time there's not  
6 a clear definition, which is what I be sure that our  
7 product specs, meaning performance, meaning scalability --  
8 scalability and features, really match the customer's  
9 need. That's the first priority. We want to be sure that  
10 those products serve the customer well.

11 Q. Okay. As we sit here today, is there any  
12 specific direction that is available to a Microsoft  
13 salesperson or a partner that says you should not sell a  
14 Microsoft business applications into a particular spoke  
15 opportunity?

16 A. Let me put it the other way around. I -- as I  
17 said, I've been a year in the business. One of the things  
18 that I have put in place to ensure that we are clearly  
19 establish a strategy is I'm telling people I don't want to  
20 sell to any spoke scenario where it hasn't been validated  
21 by, you know, our business desk so people can't tell  
22 actually our products can deliver their solution the  
23 customer wants. So we have communicated to the field  
24 that, and that's why I'm putting in place that type of  
25 resource to ensure that we do actually get the right job

1 for the right customer.

2 Q. I appreciate you wanted to change the question,

3 but I need you to answer my question. As we are here --

4 as we sit here today, is there any specific direction as

5 to the type of spoke business that your salespeople and

6 your partners should not go after?

7 A. No.

8 Q. Microsoft has succeeded in -- in capturing spoke

9 business from very large corporations that would fall into

10 the global, major and strategic accounts category, has it

11 not?

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15 THE WITNESS: Define success for me.

16 BY MR. WALL:

17 Q. You've gotten business?

18 A. Yeah, we have some accounts that may fall in

19 some of those categories.

20 Q. Are you aware of a -- a recent success having to

21 do with McKesson Corporation?

22 A. No.

23 Q. McKesson Corporation would clearly fall within

24 the global, major and strategic accounts category, would

25 it not?

1 A. I don't know the company well.

2 Q. 25,000 employees?

3 A. Based on this description, it would.

4 Q. So is it fair to say, Mr. Ayala, that a large

5 enterprise that's trying to figure out how to solve its

6 business automation needs can make a choice between

7 whether it wants to implement a centralized hub system or

8 a decentralized spoke system?

9 A. Yes, that is correct.

10 Q. Okay. And large companies, in fact, do make

11 that choice, do they not?

12 A. They do.

13 Q. Okay. And as I understand Microsoft's

14 positioning, you believe that you have some limitations on

15 your ability to serve as a hub solution for very large

16 enterprises; correct?

17 A. Uh-huh.

18 Q. Is that true?

19 A. That's correct.

20 Q. Okay. But irrespective of what -- of particular

21 circumstances in which you may not be able to -- to offer

22 the customer solution, is it fair to say as a

23 generalization that for those corporations that choose a

24 decentralized spoke strategy, Microsoft will often be an

25 alternative for them?

- 1 MS. BLIZZARD: Objection, vague.
- 2 THE WITNESS: They would be -- they would be an
- 3 alternative. But I would not generalize that way, because
- 4 we don't define success as just selling the product.

5 BY MR. WALL:

6 Q. Well, how do you define success?

7 A. Customer satisfied. I think a lot of companies

8 have gotten in trouble, many in this industry, for selling

9 just a product and leaving the customer behind.

10 Q. Okay. Have you had a big problem at Microsoft

11 with -- with your business applications customers not

12 being satisfied based upon your inability, for example, to

13 scale?

14 A. We had a recent case, yes.

15 Q. You have one case; right?

16 A. Yeah, that I have been personally involved in.

17 Q. And that's Old Castle?

18 A. Who's --

19 Q. What's that case?

20 A. It's basically REDACTED

21 Q. What is ? REDACTED

22 A. . REDACTED

23 Q. What is that company?

24 A. . REDACTED

25 Q. Oh, . So you had a REDACTED

1 solution in place with ? REDACTED

2 A. Well, we -- as I said before, we don't define  
3 success basically on just getting the customer to say, "I  
4 buy." We define success on basically getting the customer  
5 fully satisfied on the solutions they want.

6 And in this case specifically I think there was  
7 not enough good detailed analysis of requirements, which I  
8 think for the specific requirements of that REDACTED  
9 happens to be a company that is not huge compared with the  
10 global accounts, we -- we -- we are really analyzing we  
11 should basically keep the order or not, because of  
12 requirements that we cannot meet.

13 Q. So you received an order from ? REDACTED

14 A. We are in the process -- the middle of that  
15 right now. We have a letter of intent from the customer.  
16 But there's a lot of activity. I got myself involved,  
17 because I really wanted to be sure that in the end we're  
18 going to deliver a real solution for that customer.

19 Q. What is -- can you describe for me what it is  
20 that is trying to procure? REDACTED

21 A. Unique -- very unique requirements on their  
22 manufacturing side that we cannot meet. And I don't know  
23 the fine details of what they are.

24 Q. Okay. So on the manufacturing side --

25 A. And distribution, both.

1 Q. So is this your manufacturing product that is at  
2 issue?

3 A. It's the ERP product. I'm not as close to the  
4 details exactly what the details are. I know they have  
5 been elevated, and I put it at the pinnacle resource  
6 behind it to give me an independent assessment of the  
7 situation.

8 Q. Okay. Do you know whether this -- this problem  
9 that you're having with has anything to do with  
10 the functionality of the -- either the general ledger,  
11 accounts payable or accounts receivable functionalities?

12 A. I'm not that close.

13 Q. Okay. Do you know whether it has anything to do  
14 with the functionality of any human resources  
15 functionalities?

16 A. I just generally know that I have made resources  
17 available to give me a good assessment. I know that at  
18 this point in time the customer's challenge with us not  
19 meeting the requirements.

20 Q. And the challenges you understand that it has to  
21 do with what you call unique manufacturing issues;  
22 correct?

23 A. It's manufacturing and distribution. But I  
24 really don't know the details.

25 Q. Okay. And how big of a procurement is this?

REDACTED

1 A. I think it's in the range of dollars. REDACTED

2 Q. And do you know -- this may be a meaningless

3 question. If it is, just tell me. Where did the

4 procurement take place?

5 A. What?

6 Q. Was this procured by from Europe? REDACTED

7 A. Yeah. No, Asia.

8 Q. From Asia?

9 A. And Hong Kong, actually, the place where I think

10 the central decision is being made.

11 Q. Okay. And so this is a solution for some

12 manufacturing operations that they have in Asia?

13 A. Uh-huh.

14 Q. Okay. Who sold for you in this instance? Was

15 it direct or through a partner?

16 A. We always have a partner involved, but Microsoft

17 gets to assist the partner where we can.

18 Q. Who is the partner?

19 A. Atos Origin.

20 Q. Can you spell that, please?

21 A. A-t-o-s, Atos. Origin, just like the origin.

22 Q. Okay.

23 A. European partner.

24 Q. Which Microsoft product is this?

25 A. Axapta.



1 Q. Axapta? Do you know the spelling of that?

2 A-x-a-p-t-a.

3 A. Which is our high-end product. Can I give you

4 this one back?

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18 Q. Is it correct that the Axapta product is

19 positioned for multinationals?

20 A. That's better.

21 Q. And is it correct that it is positioned for

22 advanced manufacturers?

23 A. I don't know what you mean by advanced. I say

24 it's a multinational product. That would be my best

25 characterization.

1 Q. I'm going to have marked as -- let me mark as  
2 Exhibit 1303 a document with a Bates stamp MS-OPSUB 1195  
3 through 1197.

4 (Whereupon, an e-mail from Lynne Stockstad to  
5 Steve Ballmer, Jeff Raikes and Orlando Ayala sent October  
6 8, 2003 was marked as Exhibit-1303 for identification.)

7 Can you take a look at that. Just read through  
8 that for a moment and tell me if you recognize that.

9 A. This first page?

10 Q. The whole thing.

11 A. Okay.

12 (The witness reads the exhibit.)

13 A. Okay.

14 Q. Mr. Ayala, do you recognize that as an e-mail  
15 that among others you received from Lynne Stockstad on  
16 October 8th, 2003?

17 A. Yeah, I do.

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22 Q. Okay. And she -- she states here in the first  
23 lines, "Steve, Jeff and Orlando," meaning Steve Ballmer,  
24 Jeff Raikes and Orlando Ayala. "As a follow up to your  
25 request, attached are the two key slides that position the

1 ERP product lines."

2 Had you requested Miss Stockstad to try to  
3 develop some slides that clearly positioned the ERP  
4 product lines?

5 A. Yes, as the voice of the field I did.

6 Q. And this is what she came up with?

7 A. This what?

8 Q. The slides that are in the back of this  
9 document.

10 A. This was our proposal.

11 Q. Okay. And -- and she states here that the -- in  
12 the second paragraph, second sentence, "The attached  
13 slides clearly differentiate Axapta and Solomon by  
14 targeting them towards multinationals/advanced  
15 manufacturers for Axapta and project management and  
16 accounting organizations for Solomon."

17 Is that -- is that something that you had asked  
18 her to try to articulate?

19 A. What is specifically?

20 Q. Had you asked her to try to articulate a  
21 differentiation between what Axapta should be positioned  
22 for versus Solomon and the other products?

23 A. That's correct.

24 Q. And is that -- did she capture your intentions  
25 correctly in how you wanted to differentiate Axapta?

1 A. Not as detailed as I wished she had.

2 Q. Okay. What's missing?

3 A. Well, I think this is a very general  
4 characterization. Let me just say that by October I was  
5 on the job about, what would that be, six months, four  
6 months. And it's very obvious as is well-documented in  
7 e-mails the mandate from the program marketing teams that  
8 don't report to me that we absolutely have to characterize  
9 this more precisely.

10 This is way too general, way too, you know, too  
11 complicated in a way of -- of we may exposed our customers  
12 with the general characterization of what these products  
13 really do.

14 Q. Okay. Now, if you could turn the page over to  
15 the one that's entitled "ERP Product Line Positioning,"  
16 Bates number 1196.

17 A. Uh-huh.

18 Q. And it says, "Microsoft Business Solutions  
19 Axapta global ERP, multinationals and advanced  
20 manufacturers."

21 Did you change that before it went to the  
22 Worldwide Partner Conference?

23 A. I don't recall doing that. I don't recall doing  
24 that.

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10 Q. In the next -- on the next page, which is  
11 entitled, "Upper Midmarket and Corporate Accounts  
12 Solutions," very difficult to read because of the way the  
13 copying came out. But it appears to me that there are  
14 check marks, almost appear as shadows in this or ghosts in  
15 this document. But there's check marks in the row for  
16 Axapta under the columns multinational, corporations and  
17 spokes.

18 Do you see it that way as well?

19 A. It's very hard to read, but you may conclude  
20 that.

21 Q. Okay. Do you know whether this was changed  
22 before it was presented to the Worldwide Partner  
23 Conference?

24 A. You mean this slide specifically?

25 Q. This particular slide.

1 A. I don't know. I was not there. So I don't  
2 know.

3 Q. Okay. Does the slide accurately state the  
4 positioning of Axapta?

5 A. No, it doesn't.

6 Q. Is Axapta not positioned toward multinationals?

7 A. Too general. I mean, this is just exactly my  
8 point. My point is this slide absolutely just shows a  
9 very broad, general view of where Axapta may fit. One  
10 thing is for sure, recently I have demanded people to be a  
11 lot more precise about benchmarking capabilities and the  
12 finishing of boundaries of what this product can do as a  
13 result of challenges we have had with customers.

14 Q. Has that work been done?

15 A. It is -- it is clearly underway.

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19 Q. Right. Has somebody presented to you PowerPoint  
20 slides or e-mails or narrative documents in which they  
21 have articulated these positioning points that you're  
22 talking about?

23 A. Yeah, there has been information characterizing  
24 more precisely benchmarking capabilities of the product.

25 Q. How recently have you seen that?

1       A. Probably about 45 days is the best of my  
2 recollection. 45 days ago or so. But we are -- this is  
3 work underway. I mean, this is a very important thing in  
4 my mind. Again, we don't agree with the vision of the  
5 definition of success to be the customer just sign the  
6 contract. That is not our definition of success. It is  
7 can the customer really get the value of the product. And  
8 I think a slide like this is totally, you know, hard to  
9 reuse to kind of portray to the customer what these  
10 products can do.

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13 Q. I'm going to mark as 1304, I believe it is.

14 This is a document Bates stamped MS-OPCID 9336 through  
15 9338.

16 (Whereupon, an e-mail from Kirsten Kliphouse to  
17 Graham Clark, Sanjay Parthasarathy sent February 3, 2003  
18 was marked as Exhibit-1304 for identification.)

19 Mr. Ayala, do you recall at some point in time  
20 having a conversation perhaps in a meeting with Mr. Clark  
21 in which you had indicated that -- that -- to him that  
22 MBS, Microsoft Business Solutions, would be sold into the  
23 corporate accounts space and also to divisions and  
24 subsidiaries of all enterprise customers?

25 A. I have not reviewed this. You want me to?

1 Q. Yes, please. First of all, do you remember

2 having the conversation with Mr. Clark --

3 A. I had many conversations with him. So perhaps I

4 did. I don't recall exactly.

5 Q. Does that sound -- excuse me. Does that sound

6 like direction that you likely gave to Mr. Clark, that you

7 wanted MBS sold into the corporate account space and also

8 into divisions and subsidiaries of all enterprise

9 customers?

10 A. I don't recall precise details, but I would say

11 it's consistent with what I think our products can be

12 sold.

13 Q. Okay. Go ahead and take a look at the exhibit.

14 And first of all, I'll ask you if you've ever seen this

15 before.

16 (The witness reviews the exhibit.)

17 A. Okay.

18 Q. Okay. Now, have you ever seen that before?

19 A. No, I don't think so.

20 Q. Are you familiar with -- with the -- the

21 incident that it relates to, which is a competition

22 between MBS and PeopleSoft relating to an account called

23 Helmerich, H-e-l-m-e-r-i-c-h, and Payne?

24 A. Not at all.

25 Q. Not at all? Okay. The subject of the -- of the

1 e-mail is escalating GISV and MBS conflict.

2 Do you know what a GISV is?

3 A. I assume they are referring to global ISV.

4 Q. Okay. And is PeopleSoft a global ISV of  
5 Microsoft's?

6 A. I don't know if it is classified that way.

7 Q. Is it -- is there -- is there another  
8 classification that would fit PeopleSoft?

9 A. I don't know, because I don't manage global ISVs  
10 or be involved directly in managing their contracts or  
11 anything like that.

12 Q. In your present position, don't you have  
13 responsibility for Microsoft partners?

14 A. I do, but not in the enterprises space,  
15 specifically not global ISVs.

16 Q. Who does?

17 A. The enterprise team.

18 Q. And who is the enterprise team?

19 A. Simon Witts.

20 Q. How do you spell his last name?

21 A. W-i-t-t-s.

22 Q. Have you ever been made aware that the MBS  
23 business strategy was causing some conflict with global  
24 ISVs?

25 A. Not in any major -- I have heard minor things.

1 Never been escalated to me in any formal way.

2 Q. What have you heard?

3 A. Things like that, that in some places we may be  
4 competing. But frankly, passing comments. Not really  
5 anything major that I recall. I haven't been involved in  
6 trying to resolve or meet with any executive of any ISVs  
7 to try to resolve.

8 Q. Have you ever heard specifically of any  
9 conflicts involving Microsoft and PeopleSoft?

10 A. No.

11 Q. How about Microsoft and SAP?

12 A. No. I mean, you got to define conflict for me  
13 again.

14 Q. I'm talking about the kind of conflict that is  
15 referenced in Exhibit 1304, meaning that -- that a  
16 conflict arising from the fact that you are to some degree  
17 competing with an ISV partner.

18 A. No. You mean a global ISV partner?

19 Q. A global ISV partner. You've heard that with  
20 respect to other ISVs?

21 A. Some of them mostly, in the midmarket, because  
22 that's where we are actually quite active, not really in  
23 the enterprises space.

24 Q. And what conflicts have come up in that area?

25 A. People -- there are concerns of Microsoft

1 competing with certain ISVs in certain geographies. Most

2 of these partners are actually focused in midmarket.

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10 Q. Okay. Well, let me ask you a different way.

11 Can you -- can you state for me the ways in which

12 Microsoft competes with Oracle?

13 A. I would say mostly on database.

14 Q. What besides database?

15 A. I don't think we have so far a lot of

16 competition in any other areas. I would say mostly the

17 database is a very heated competition.

18 Q. Don't you compete with Oracle with respect to

19 tools?

20 A. Not really. I don't think so. I don't consider

21 really Oracle a platform player.

22 Q. Why do you say that?

23 A. I don't think they are. I mean --

24 Q. Why do you say that?

25 A. I don't think they have an operating system.

1 They write all the applications on a stack that has three  
2 or four operating systems.

3 Q. That has what?

4 A. Three or four operating systems. So I would  
5 define somebody on a stack when we are defined on a stack.  
6 I'm think they are.

7 Q. Well, who in your way of looking at things is a  
8 stack player?

9 A. In my opinion a stack player is well,  
10 well-defined are a company like Microsoft or Sun. Sun has  
11 a stack.

12 Q. What is the Sun stack?

13 A. I think they play on Solaris for the most part  
14 and their own Java middleware.

15 Q. So you're defining the stack as requiring there  
16 to be an operating system and middleware from the same  
17 company?

18 A. Yeah.

19 Q. Okay. So by your definition there's -- there's  
20 really only two players?

21 A. I would say other people use other pieces of the  
22 stack to compete, but really course software players, I  
23 would say there's two.

24 Q. What do you make of IBM, do you consider them to  
25 be a stack player?

1 A. Not really.

2 Q. Why not?

3 A. Because they also write too many operating  
4 systems. I mean, they have their middleware with William  
5 Nohoff (phonetic). They have some collaboration and they  
6 have some applications mostly sourced by somebody else.  
7 But at the bottom seen, it's Unix, it's Linux, it's  
8 Windows.

9 Q. Does Microsoft obtain any competitive advantages  
10 as a result of the fact that it has a more complete stack?

11 A. That we do have?

12 Q. Yes.

13 A. I would say that we make products a little more  
14 integrated for the benefit of the customers. I would  
15 say --

16 Q. Excuse me. Could you sea that again, please?

17 A. More integrated. More integrated for every  
18 player of the stack for the benefit of offering more  
19 effective solutions to customers. So based on customer  
20 benefit, I would say we do have an advantage.

21 Q. Why isn't it advantage -- excuse me. Why isn't  
22 it an advantage -- excuse me. Sorry. Why are customers  
23 advantaged by the fact that you have integrated solutions  
24 down the stack?

25 A. Okay. I'm going to take a little bit of time

1 with this one, because I think it's quite important. We  
2 fundamentally believe that customers today are  
3 implementing IT in ways that can be a lot more efficient.  
4 So I do believe the integration of a stack of  
5 Microsoft is all about removing complexity out of how  
6 customers do the connection between the operating system,  
7 the middle layer, and even the business applications. So  
8 removing that complexity is a very important part of the  
9 strategy which is in public domain. We call it integrated  
10 innovation.

11 Not because of Microsoft. It's about removing  
12 complexity from customers. I think customers are  
13 overpaying today for some of these very expensive  
14 solutions are required the stacks that have to integrate  
15 different operating systems, and it's all that hard. So  
16 from that perspective I do believe that we remove  
17 complexity from customers' problems, we absolutely should  
18 have an advantage. And that's what we are betting on at  
19 the foundation of the company.

20 Q. And to what extent does that -- that analysis  
21 that you just provided us relate to your business  
22 applications strategy?

23 A. Similar.

24 Q. How?

25 A. Well, we say that the connection between the



1 operating system and other pieces of the application could  
2 be made easier for horizontal applications, and especially  
3 uniquely for midmarket customers.

4 Q. Why midmarket customers uniquely?

5 A. Because they have been underserved for a long  
6 time. I think most vendors in this industry have not  
7 really made the innovation needed to be able to provide  
8 these solutions to midmarket customers.

9 Q. They've spent all their energy with the  
10 enterprise customers; is that what you're saying?

11 A. Mostly.

12 Q. And so in your view the -- the unmet needs from  
13 an innovation standpoint are in the midmarket?

14 A. I would say there is innovation to be made. Let  
15 me just describe innovations of ways. I think innovation  
16 in the midmarket for sure is very unmet, very fragmented,  
17 a lot of players, customers are paying the price of  
18 fragmentation.

19 So I do believe there's opportunity for  
20 midmarket customers to use integrating innovations as I  
21 defined before, which is connecting the pieces more  
22 effectively. And that's why that's the focus for  
23 Microsoft, ending the price of space, frankly. I think  
24 the penetration of ERP systems is very deep.

25 Q. The penetration of what?

1     A. ERP systems. It's already -- I mean, not every  
2     single customer has this, but it's very deep. I mean,  
3     it's a lot of penetration. Strategically for Microsoft is  
4     two things. The business opportunity is not really in the  
5     enterprise. For this -- I mean, even in the next five  
6     years, I think the real opportunity for growth for  
7     Microsoft and revenue is in the midmarket space. It's  
8     more medium business. And the reason why is because it's  
9     an unmet need. So why going after the big enterprise.

10       Now, in the enterprise there's a lot of type of  
11     innovation. If I needed to spend money on real  
12     innovation, which we are on the enterprises space, I know  
13     where it is. It's basically on management and security.  
14     That would be the two aspects of innovation that are first  
15     priority for Microsoft to solve for customers. Because  
16     again, it's a very large unmet need.

17     Q. Right.

18     A. That we believe is a very high priority for the  
19     us in the enterprise. You asked me enterprise priorities.  
20     Microsoft has one.

21     Q. Do you perceive any unmet needs in the  
22     enterprise space with respect to basic financial or human  
23     resources functionalities?

24     A. There may be some, yeah.

25     Q. Are you aware of any?

1       A. Well, there are customers -- again, talking  
2 about the enterprises space too broadly, it's a little bit  
3 of a challenge. I would say in the high end of the stack  
4 I think customers have adopted the few players that are in  
5 that space, namely Oracle, SAP and others. And they have  
6 been able to probably install the basic systems.

7       Now, opportunity to extract data from those  
8 systems a lot, that's why we are so focused they say on  
9 office. Which our systems actually provide the  
10 opportunity to extract data from, you know, systems like  
11 Oracle's or SAP's in a very effective way for the  
12 customers. So that's an unmet need at the level of the  
13 knowledgeable worker, which we are very focused on.

14       So our strategy in the enterprise mostly, as you  
15 define enterprise, which is I guess mostly the top 2,000  
16 accounts I guess, is mostly for Microsoft in two areas.  
17 Is the knowledgeable worker opportunity, extracting data  
18 from the highly penetrated ERP system that's we have  
19 already in place, and in security and management. I think  
20 those are two very, very important opportunities for  
21 Microsoft. Not really the ERP or CRM space.

22       Q. So is it fair to say that one of the reasons  
23 that you're not focusing on the core ERP business in the  
24 enterprise space, the large enterprise space, is because  
25 you don't think there's any money to be made there?

1       A. No, I didn't say that. I didn't talk about  
2 money. Opportunity comes through customer value. So I  
3 didn't speak the word money at all. So what I said was  
4 that even if we had the product, which we don't have --  
5 let's assume for a minute that we do have a product or  
6 that we said, okay, let's build a product, I don't think  
7 that's the smartest thing to do given the unmet needs of  
8 the enterprise or in other places more than just going and  
9 selling the next ERP system.

10       Starting with the fact that it's just not  
11 simple. It's a very hard thing to do. As you are aware  
12 Microsoft runs on SAP and Siebel. I was having personally  
13 involved in those. You think there's any chance that any  
14 company, even like Microsoft, can come and change those  
15 any time soon? No chance. No chance.

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24       Q. Are you saying, Mr. Ayala, that because these  
25 large enterprises all already have an implemented ERP

1 solution, that it would be very difficult for someone to

2 dislodge them from that solution?

3 A. It would be a very, very -- one of the very key  
4 factors. I think any CFO would challenge that strategy  
5 deeply.

6 Q. Well, one of the things you're going to have to  
7 do is convince them that making any decision at all,  
8 whether to go to you or to go to another competitor, makes  
9 them better off than keeping what they have; right?

10 A. I don't know what you're saying.

11 Q. What I'm saying is, would you agree with me that  
12 one of the -- one of the difficulties of selling into the  
13 very large enterprises is that they have the option to  
14 simply keep what they already have?

15 A. Sure, absolutely.

16 Q. Okay. So you have to compete against the --  
17 essentially the do-nothing option?

18 A. Yeah. The do nothing that is heavily backed up  
19 by how much money I have to spend on doing anything.

20 Q. So you may not have any money to do anything as  
21 it is; is that what you mean?

22 A. Well, you may have money. You wouldn't put it  
23 there. I'll put it in other things, but not in trying to  
24 change my ERP system.

25 Q. And why wouldn't you put it into changing your

1 ERP system?

2 A. Because if the people really made the base  
3 investment of millions and millions of dollars in the base  
4 ERP system, why would you want to do that? It goes beyond  
5 me. That's why I tell people, even we have the problems  
6 we don't have in competing in GSM, even if we had the  
7 problems, I don't think it's the smartest thing to try to  
8 go and convince the customers that they need another ERP  
9 system.

10 Q. Mr. Ayala, do you recall saying at one point  
11 that Microsoft had no intention of going for the core ERP  
12 system of a corporate account or bigger because, quote, "I  
13 think we all agree that is not the place where the dollars  
14 are anymore"?

15 A. Yeah. I agree with that.

16 Q. So it's a financial calculus?

17 A. You can always put a number to it. But I'm  
18 going to say it's not the only factor.

19 Q. Let me ask you another question on this same  
20 issue about going after these -- these large enterprises  
21 that already have systems.

22 Are you familiar with the statement that  
23 Mr. Gates made recently in Business Week about -- about  
24 Microsoft's biggest competitor being the installed base?

25 A. No, I'm not.

1 Q. Okay. Let me -- let me read this to you. This  
2 is from the -- I believe it's the April 19th issue of  
3 Business Week, an article with Mr. Gates. He's asked who  
4 Microsoft's most important competitors are. And he says  
5 the following. Quote,

6 "I don't know if people really get what I'm  
7 saying or if they think -- or if they just think I'm  
8 being cute when I say our biggest competitor is our  
9 installed base. Yes, we have other competitors --  
10 Sony, Linux, Nokia, Oracle and IBM. But the fact  
11 that you can sit on the existing products, that's a  
12 perfectly legitimate choice. This is not a soft  
13 drink where you get thirsty and say, 'I drank my word  
14 processor. Let's have another.' No, some people  
15 actually say to us there are no new things you can  
16 do."

17 Do you agree with that analysis?

18 A. I would need to read the whole -- the whole  
19 interview to see what context he was using to say that.  
20 So I couldn't tell based on the context he was using.

21 Q. But in the case of selling business applications  
22 to these large enterprises in particular, do you agree  
23 that one of the problems that you have, that anyone would  
24 have in selling to this group, is that they already have  
25 the existing products and they have the option to sit on

1 them?

2 A. Yeah. That's a very big dependency, I think.

3 And it's a very logical one based on the fact that money

4 is just not sitting there waiting to spend on another ERP

5 system necessarily. And there will be other

6 opportunities. But I would say for the most part, yeah.

7 An installed system like you have in Microsoft, you know,

8 you bet, would be a very serious, serious discussion we

9 wanted to change.

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23     Q. Mr. Ayala, I'd like to show you what I've marked  
24 as Exhibit 1305, a document with a Bates stamp MS-OPSUB  
25 438.

1 MR. RULE: 438 to? Is it just one page?

2 BY MR. WALL: Yeah, I'll give you the range.

3 Sorry. I marked the wrong one here. I just did it on  
4 this part myself. Just simple tasks will often confound.

5 Q. All right. Let me do that again. So Exhibit  
6 1305, which I'm placing before you, is Bates stamp  
7 MS-OPSUB 438 through 441.

8 (Whereupon, an e-mail from Erin Brewer to  
9 Janelle Poole, Michael Olsen sent July 10, 2003 was marked  
10 as Exhibit-1305 for identification.)

11 Can you take a look at that, please?

12 (The witness reviews the exhibit.)

13 A. Okay.

14 Q. Do you recognize the document, sir?

15 A. Yes, I do.

16 Q. It's an e-mail string that followed something  
17 called a Seattle Salon Dinner; is that right?

18 A. Uh-huh.

19 Q. What is that?

20 A. We do quarterly meetings with key information  
21 reporters, just so they know the strategy.

22 Q. So these are arranged by Microsoft?

23 A. Yeah, yeah.

24 Q. By the PR department?

25 A. Yes.

1 Q. And there was a Bloomberg reporter present at

2 this particular Salon Dinner?

3 A. Yes. Yes, as I recall.

4 Q. And on the second page of the document, Bates

5 stamped 439, there's a -- an imbedded -- looks like

6 somebody copied in an article entitled, "Microsoft heads

7 for a collision with Oracle Software."

8 Do you see that?

9 A. Uh-huh.

10 Q. In there you are quoted as saying, "This will be

11 a head-on collision with Oracle, you bet. They are moving

12 down to smaller customers and we are moving up."

13 Do you recall saying that, sir?

14 A. Yeah, in the context of a larger statement I

15 made.

16 Q. Okay. Go ahead. Please give me the larger

17 statement that you made.

18 A. Okay. The larger statement, the whole

19 discussion was around areas of growth for companies. That

20 is what the whole context is. And I made an assertion

21 that, given the fact that in the very large hubs --

22 there's large penetration.

23 I think people in general see that there's been

24 a lot more selling of ERP on our systems. Oracle, as we

25 do, are looking for more opportunity for growth. That's

1 normal. Both companies want to grow of course. It's just

2 normal business desire.

3 Q. And the growth is not in the large hub, is what

4 you're saying?

5 A. Yeah, I would say they're -- they're still -- I

6 would say that for companies with the credibility of

7 Oracle and Siebel, I would say there is a lot more space

8 to grow there than we would have.

9 Q. Okay.

10 A. Because they are -- they have the reputation to

11 be able to do those solutions there. But I would say even

12 for those companies, the size of the opportunity is not as

13 big as it used to be in the '90s when people went crazy

14 preparing for year 2000 change.

15 Q. Right.

16 A. So we both were looking for opportunity for

17 growth. So given the fact that our products fit in

18 certain spoke environments, my anticipation was that

19 Oracle would start to move to those spokes even within GSM

20 accounts and within corporate accounts.

21 And we absolutely have the desire to sell to

22 those customers, because I think our products may fit to

23 some of those customers in the spoke environment. And

24 Oracle will try to spend beyond the spoke. I have no

25 hopes that they would want to -- that they will try to

1 sell into the midmarket and even lower if they can.

2 And you probably heard about these program

3 Oracle just did with Dell on the database at the very

4 bottom of the market. So it's very obvious that the

5 challenge comes more than us going and trying to compete

6 head on for the core of enterprise business is really

7 we're moving up, because we don't sell to the spoke. We

8 will sell to the spoke. And in certain well-defined

9 environments that can meet first of all the customer need

10 first.

11 So I don't want to take that such narrow comment

12 about we will sell to everything on the spoke. I know

13 that's totally unreal. Or the aspiration I don't think is

14 real. So that's what I meant in the context of doing

15 that.

16 Q. I understand. But the reality is when Oracle

17 comes down in the way you describe, and Microsoft moves up

18 in the way you describe, they do collide at some point;

19 correct?

20 A. They do collide.

21 Q. And you will be a -- you are now a head-to-head

22 competitor of Oracle's where your strategies intersect?

23 A. Where the strategies intersect, which is on

24 certain spoke limited scenarios and in the midmarket the

25 strategies intersect. The question to be answered is --

1 is what is the strength of every proposition. But we  
2 would be -- let's put it this way. We are making offers  
3 to the same customers in the midmarket more actively than  
4 we did in the past.

5 Q. And in the corporate account space?

6 A. In some of the corporate account. I really  
7 don't want to generalize that, because that's where people  
8 tend to be confused about the strategy.

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4 Q. And as I -- as I hear you, sir, and please

5 correct me if I'm wrong, what you seem to be saying is

6 that one needs to analyze competition across all its

7 dimensions at the same time?

8 A. I think that any responsible company would do

9 that. That's why generalizing that we are in the

10 enterprise space is just so broad of a -- of a statement

11 that I said it's just wrong. It's hard to just look at it

12 that way.

13 Q. Because sometimes you are, and sometimes you

14 aren't; right?

15 A. Yes.

16 Q. Okay. And the circumstances in which you are

17 and the circumstances in which you aren't, as I understand

18 your testimony, are not really capable of generalization;

19 is that fair?

20 A. Yeah. To certain extent you could make an

21 assessment of -- you know, let me just give you a product

22 in my mind. You know, an example, an example in my mind.

23 Maybe useful, maybe not.

24 Q. Okay.

25 A. Can you conclude very quickly and very rapidly

1 that you're going to do a formula one race, and you put a  
2 muscle car, company with a formula one race type car.  
3 That's not going to fly. You come out of the gate, can  
4 very quickly conclude that.

5       So, yeah, maybe the case very quickly you could  
6 conclude if a product doesn't have the right stuff. Very  
7 quickly and out of the gate you can conclude and maybe  
8 say, I don't compete, because basically I don't have all  
9 of the requirements to be able to run the race. And I  
10 would say in that case, that's an important consideration.  
11 But really just making a generalization of competition  
12 that way.

13       So if you narrow it down to that specific type  
14 of situation, it's how ready certain product is to compete  
15 to system based on how the race should be run, then  
16 clearly you can differentiate competition very quickly.  
17 But just on a statement of generalization, I resist to  
18 talk about that. Because, you know, customers are  
19 different.

20       And there are even in the midmarketing space, I  
21 can assure you there will be some requirements for  
22 customers of certain levels of transaction independent of  
23 size that I don't think our products can meet.

24       Q. And the same would likely be true of Oracle  
25 products or SAP products or anyone else's; right?



① A. True. Absolutely true.

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25 Q. Okay. Let me -- fair enough. That's a fair

1 point. Let me start over, then. Okay. With respect to  
2 selling core ERP, finance and HR fundamentally, would you  
3 agree with me that there's a greater opportunity in the  
4 corporate account space over the next five years than  
5 there is above that in the larger enterprises?

6 A. For Microsoft, absolutely. For the other  
7 vendors I would say this is still opportunity in both  
8 places.

9 Q. With respect to the other vendors, would you  
10 agree with me that the dominant opportunity is  
11 replacements?

12 A. Define opportunity. In terms of what?

13 Q. The dominant opportunity to make any kind of --  
14 of new license revenue is by selling a replacement of an  
15 existing system.

16 A. I don't track as closely the number of licenses  
17 you can sell of an established vendor like Oracle or SAP  
18 into the corporate enterprise GSM space. My view of this  
19 is for non-established vendors into the GSM space that is  
20 nearly a zero opportunity to them, for non-established  
21 vendors.

22 Q. And that is in part because you're always  
23 competing against the existing solution, and you have  
24 existing vendors there?

25 A. Is many reasons. I think having the footprint

1 to support those customers, having those capabilities. I  
2 think it is kind of a very, very -- even if we had a  
3 product, it's a very, very costly proposition. So for  
4 non-established, I don't think there is a big chance to --  
5 there's zero opportunity, in my view.

6 For established vendors, I will say, you know,  
7 basically because of their reputation, they have been  
8 working on this stuff for a long time, they know how to do  
9 it, they have the connections with the right people,  
10 talking to the decision makers in these places, I would  
11 argue that this is still probably some relevant  
12 opportunity there.

13 Now, I can also understand how they don't want  
14 to limit themselves to that. They want to also  
15 participate down market, which is what Oracle and SAP and  
16 others are doing. So you know, you got to look at these  
17 things from that length. So kind of making a statement up  
18 there there's an opportunity broadly, period, I don't  
19 think is actually factual. It depends on who is the  
20 player in that space.

21 And I would argue there is still a lot of  
22 opportunity for Oracle and SAP up there. Now they want to  
23 have more coming down, and I can understand that, too.

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9 Q. Okay. Are you aware of a -- an alliance that  
10 Microsoft has recently formed with BearingPoint having to  
11 do with business application solutions?

12 A. Very briefly.

13 Q. What do you know about it?

14 A. Just heard that we decided to explore the  
15 opportunity with them to sell to some corporate accounts  
16 on a spoke space, on -- probably on the midmarket, upper  
17 midmarket with them more accurately.

18 Q. You were not personally involved in it at all?

19 A. No.

20 Q. Do you know who was?

21 A. Yeah, it's a lady that was involved in there.  
22 She's part of our organization, but she reports probably  
23 three levels down in my organization.

24 Q. Did you get any reports about this in the  
25 ordinary course of business?

1 A. No.

2 Q. So you only heard about it through this

3 litigation process?

4 A. No. No, not at all. I heard about it because

5 people just mentioned it briefly in e-mail to me that they

6 have been able to advance some discussions with

7 BearingPoint. I didn't get any other details.

8 Q. Okay. Do you know what the status of it is

9 right now?

10 A. No.

11 Q. Do you have any specific understanding of the

12 target market that a BearingPoint/Microsoft alliance would

13 be shooting at? Meaning something that's -- did anybody

14 tell you what it was?

15 A. For MBS specifically or at all?

16 Q. For the BearingPoint/Microsoft -- yes, for MBS.

17 A. Yeah, there is several pieces of the alliance.

18 No, but I'll tell you, I think my team is pretty clear on

19 where I'm heading as the leader of the group on where I

20 want to focus on.

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22 Q. Sure. Mr. Ayala, in your opinion, is there a  
23 relationship between the acquisition -- the proposed  
24 acquisition of PeopleSoft by Oracle and Oracle's position  
25 in the database market?

1       A. I don't think there is a -- I mean, there's a  
2       scenario you can paint. But I don't think there's a very  
3       super direct correlation.

4       Q. What's the scenario you can paint?

5       A. The scenario you can paint is that Oracle  
6       decides that internally all SQL Server customers that used  
7       to run under PeopleSoft should move or would try to move  
8       them over to the Oracle device. I can paint that  
9       scenario. But again, it's hard to conclude, because I  
10      think a customer also demanding, you know, what they think  
11      is good for them. So I could paint that scenario.

12      Q. Is there a scenario that you can paint where the  
13      acquisition is intended to strengthen Oracle's position  
14      along the stack?

15      A. Not really.

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16 Q. Okay. Turn the page, if you will, to the Bates  
17 14018, and the third paragraph from the bottom under the  
18 category losers reads, "Microsoft." And then quickly  
19 refresh yourself by reading that; okay?

20 A. Third paragraph?

21 Q. The one that says "Microsoft", third paragraph  
22 one from the bottom.

23 A. Okay.

24 (The witness reads the exhibit.)

25 A. Okay.

1 Q. Okay. Let me just break it down. The second  
2 sentence says in part, "Like IBM, Microsoft stands to lose  
3 the database and platform business from PeopleSoft/JD  
4 Edwards."

5 Do you agree with that?

6 A. No, it is a conclusive statement. I'd say  
7 that's a scenario you can paint that way.

8 Q. What's the scenario you can paint that way?

9 A. I refer back to my answer that was Oracle can  
10 decide that they want to move all PeopleSoft customers  
11 from SQL Server to the Oracle database.

12 Q. The -- a couple sentences later it says, "It  
13 gets worse if IBM's response is to stay put and throw all  
14 of their weight behind supporting SAP on their platforms."

15 Do you agree that the potential scenario where  
16 Microsoft stands to lose database and platform business  
17 might get worse if IBM's response was to throw their  
18 weight behind supporting SAP?

19 A. My opinion is IBM is a smart company. They  
20 wouldn't do that.

21 Q. Why wouldn't they do that?

22 A. Because if I believe their statements of how  
23 they compete, they are trying to serve their customer  
24 independently of platform. So why would IBM do that? So  
25 I mean, in some ways I don't believe that's what's likely

1 IBM would do.

2 Q. If IBM were to do it, would it have negative  
3 effects on Microsoft's database and platform business?

4 A. Can't speculate on that. I just don't know.

5 Q. As a logical matter, would it tend to have  
6 negative effects on Microsoft?

7 A. Similar to what if Oracle decides that only  
8 their systems run on Oracle database. But as I said, I  
9 think it's a very unlikely scenario that IBM would do  
10 that.

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23 Q. Okay. So with respect to the consolidation in  
24 the -- amongst enterprise players, what are the economic  
25 forces that in your view are driving it?

1       A. I don't think there is a -- at this point in  
2 time a very obvious consolidation force in the ERP market  
3 at the top. You may argue that that may be basically  
4 because of more strengthening somebody's position in the  
5 market that could happen.

6       I'm not so sure that that market on the ERP side  
7 is really overcrowded for the enterprise. I think  
8 underneath -- I think there is a lot of players, just way  
9 too many. At the top I think the consolidation for the  
10 most part has been happening. And I would say that, you  
11 know, I think more forces are around vendors trying to  
12 establish a stronger position. I'm not so sure that it's  
13 really around customer benefit.

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(Whereupon, an e-mail from Carlene Chmaj to  
Orlando Ayala, et al., sent June 2, 2003 was marked as  
Exhibit-1308 for identification.)

1

2 Q. Okay. And Ms. Chmaj says, "Orlando, your Q and

3 A interview with CNET posted today. It's interesting that

4 much of it is verbatim from your interview and not much

5 edited out, which is not typical."

6 Having reviewed the Q and A, do you agree that

7 this is -- this is mostly verbatim?

8 A. It does, although I think they may have some

9 pieces.

10 Q. Okay.

11 A. But that always happen.

12 Q. All right. On the second page of the document,

13 page 5277, the question is asked, "Who do you see as your

14 biggest competitor in this market?" And in the second

15 paragraph of the answer you say, "In the range of 5,000

16 employees, we see companies like Oracle could be a head-on

17 competitor."

18 Were you asked that question and did you give

19 that answer?

20 A. Yeah, I was asked that question and give that

21 answer. Again, I think they missed a little bit of the

22 context of the answer, too.

23 Q. Well, putting aside the context, were you asked

24 that question and did you give that answer?

25 A. The question was done, the answer is partially

1 reflected here.

2 Q. So in part what you said was that in the range  
3 of 5,000 employees, you see companies like Oracle to be  
4 head-on competitor?

5 A. In part. I mean, it's a very key part, though.

6 Q. Let me mark as Exhibit 1309 a document with a  
7 Bates stamp MS-OPSUB 1416 through 1419, an e-mail from  
8 Orlando Ayala, Friday, March 5th, 2004 to Orlando Ayala  
9 and others.

10 (Whereupon, an e-mail from Orlando Ayala to  
11 Orlando Ayala, et al., sent March 5, 2004 was marked as  
12 Exhibit-1309 for identification.)

13 (The witness reviews the exhibit.)

14 A. All right.

15 Q. This is your work, Mr. Ayala?

16 A. Yes.

17 Q. You wrote this?

18 A. (No audible response.)

19 Q. Can you describe for me the circumstances under  
20 which you wrote this, what was going on?

21 A. I was in Brazil probably a week before this.

22 And our targets for profitability for PNL were being  
23 established as we were doing it at that time. I was  
24 concerned that our -- after our year really understanding  
25 how much of a heavy lifting this business applications is,



1 frankly, our whole year understanding this, I felt the  
2 company was not even close to -- to really understanding  
3 what it takes to get into this business, even in the  
4 midmarket. Not to say in enterprise, even in the  
5 midmarket.

6       So I was making that call basically a brain bomb  
7 with respect to all the pieces that we needed to look into  
8 to take us to a very detailed business discussion around  
9 our footprint, including the fact -- and I mention this in  
10 here. We have a lot of trouble with some customers for  
11 not characterizing what I believe these products are for.

12       I believe there's agreement, which all the spoke  
13 discussion we had before, many of those were actually in  
14 that category. So this led to this meeting with Steve, in  
15 which I feel pretty good now we will be in a very good  
16 position to establish our boundaries, as I say. There  
17 were no boundaries here.

18       Q. No boundaries?

19       A. Yeah. No boundaries. And because there were no  
20 boundaries, not because we didn't -- didn't -- I wanted to  
21 not do it on purpose is because I don't know the work was  
22 not done. I'm saying, hey, listen, these countries are  
23 the ones that can really be -- that's why I refuse to say  
24 global.

25       Because, you know, these are the type of

1 scenarios we can sell this stuff. So that's why I refuse  
2 to say slides are so high level. They're representing the  
3 World Partner Conference, because they don't help. So  
4 that was my work. And I have been the driving force on  
5 making these boundaries very clear.

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10 Q. Okay. Let me rephrase that. It was my mistake.

11 Do you have experience working with your partners to sell  
12 Microsoft products to GSM customers?

13 A. Yes.

14 Q. Okay. And do they include the very large  
15 Fortune 500-type customers?

16 A. For all Microsoft products, except MBS.

17 With respect to -- so let's take -- what would  
18 be a good example? Database, would that be a good example  
19 of the kind of product --

20 A. Yes.

21 Q. -- that you've sold to those customers?

22 A. Yes.

23 Q. Okay. Can you tell me very generally how large  
24 companies procure database solutions? That is, do they  
25 put out RFPs? What do they do?

1     A. Yeah, they usually put RFPs. I think the  
2     dialogue with the IT departments are very important part  
3     of the selling. And they don't tend to be necessarily one  
4     vendor. I mean, they have a central database. I would  
5     argue the same concept of hub and spoke applies here, but  
6     at the level of a database.

7     Q. Right. Okay. And is there a tendency of those  
8     customers to down select to a couple of vendors before  
9     they make a -- a -- a decision on what to procure?

10    A. Yeah, regularly they do that, yeah.

11    Q. How many do they typically down select to?

12    A. 90 percent of the time or more?

13    Q. To two?

14    A. Two or three. I cannot tell you. I mean,  
15    saying two, I'm always reluctant to say, hey, it's two or  
16    it's three. I mean, it's really in that range.

17    Q. Sometime it's two --

18    A. Few of them.

19    Q. Sometimes it's two, sometimes it's three?

20    A. Yeah.

21    Q. Does it make any difference on what they end up  
22    paying -- as a broad proposition, does it make any  
23    difference on what they end up paying whether they down  
24    select to two or three?

25    A. What do you mean paying?

1 Q. Well, the realized price, the license price that  
2 they agree to pay, do they -- do they end up paying a lot  
3 more if they down select to two than if they down select  
4 to three?

5 A. I cannot see the correlation.

6 Q. You've never seen any correlation?

7 A. No. Let me just ask, see if I understood your  
8 question.

9 Q. Okay.

10 A. Saying it is a correlation between two people  
11 and low price? I just don't understand that connection.

12 Q. Okay.

13 A. Sorry. You got to ask that question again.

14 Q. No, no, that's fine. Maybe it's unfamiliar to  
15 you. The concept that I'm asking you to comment on is, in  
16 your experience, do customers essentially make a mistake  
17 if they down select to two rather than three, because they  
18 end up paying higher prices as a result?

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22 Q. You may answer, sir.

23 A. I would say, again, it's a generalization. One  
24 thing that is very important that I think I'm right on,  
25 they don't pay just because of the price of the software

1    itself. It's the overall problem they're trying to solve.

2       Q.   Right.

3       A.   So in many cases you really got to look at the  
4   customer. I go back to this generalization really doesn't  
5   help.

6       Q.   I understand that they're buying across a  
7   broader set of criteria. But I'm just asking you to focus  
8   on price. Because whatever they're buying on, there is a  
9   price at the end of the day, is there not?

10      A.   Yeah.

11      Q.   There's a price.

12      A.   Okay. Go ahead.

13      Q.   And my question is, in your experience when  
14   large customers procure -- we were talking about database  
15   software. When large customers procure database software,  
16   do they end up paying more if they have down selected to  
17   just two vendors than if they had down selected to three  
18   vendors?

19      A.   If they pick the wrong ones they may end up  
20   paying more.

21      Q.   As a general matter does the number of bidders,  
22   two versus three, make any difference on the price that  
23   they pay?

24      A.   Totally disagree with that statement.

25      Q.   You think it does not make a difference?

1 A. It depends on who is there. I mean, I'm very

2 serious about my answer.

3 Q. Look, you seem to think that we're arguing, and

4 we're not.

5 A. No, I'm not.

6 Q. So let me -- let me be clear. Do I understand

7 you correctly that in your experience, you cannot

8 generalize that someone will pay more money because they

9 down selected to two than if they down selected to three?

10 A. You can't generalize that way.

11 Q. You --

12 A. You cannot.

13 Q. You cannot generalize that way; okay. Now, and

14 that's been your experience with respect to database

15 software?

16 A. Yes.

17 Q. Has it been your experience with respect to

18 other products that are sold to GSM customers?

19 A. Yes.

20 Q. Is it -- is it fair to say that it's been your

21 experience with respect to all the products that you've

22 sold to GSM customers?

23 A. Yes.

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9 (Whereupon, an e-mail from Orlando Ayala to

10 Orlando Ayala, et al., sent March 5, 2004 was marked as

11 Exhibit-162 for identification.)

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3 Q. Okay. I will do my best, also. I'd like to

4 begin actually with a document you've already looked at.

5 I'm going to hand you new copies of it, because I believe

6 there was an attachment that was left off Mr. Wall's, not

7 that that's actually particularly critical. But this will

8 be government's Exhibit 162, if you could look at this.

9 (The witness reviews the exhibit.)

10 Q. And as we discussed before, this is an e-mail

11 from you dated March 5th, 2004. It's entitled, "MBS game

12 plan next three years. Use this version, please." And

13 the Bates number is MS-OPSUB 1416.

14 A. Okay.

15 Q. Okay. If you -- if you look in the very first

16 paragraph, and you spoke briefly about this to Mr. Wall

17 already. There's a sentence in the middle that says,

18 "The below has resulted from a framework we've

19 put together with the help of Steve Ballmer and Jeff

20 Raikes in the last meeting we had to ensure we put

21 boundaries to this business in such a way that we can

22 manage expectations both internally and externally."

23 And that phrase, "boundaries to this business in

24 such a way that we can manage expectations both internally

25 and externally," can you explain to me what that means to

1 you?

2 A. Yeah. It speaks of my personal experience  
3 throughout the last year on ensuring we provide a lot of  
4 clarity to our people and to our partners in several  
5 dimensions. The most important of all was to ensure that  
6 the capabilities of these products get represented  
7 properly to customer a hundred percent of the time.

8 And as I have mentioned before many times, in  
9 line with this strategy that I think the company's  
10 pursuing for the next few years that was highly focused on  
11 the midmarket.

12 Q. And when you say to make sure that the  
13 capabilities of the products are represented accurately,  
14 do you focus on that because there have been problems with  
15 that in the past year?

16 A. Yeah. As I mentioned before, I was particularly  
17 involved in the case where, you know, the customer liked  
18 the product a lot. And I'm not quite sure we -- we are  
19 able to meet the demand of that customer, in  
20 Asia I mentioned before.

21 Q. What are some of the specific capacities that  
22 you think have not been represented as accurately as they  
23 could be?

24 A. I think there are two angles. One is  
25 scalability. So being able to manage the loads they need

REDACTED

1 to, even though this is mostly they are looking for a  
2 spoke-type solution. And the second is, the uniqueness of  
3 certain features which I really don't have a lot of  
4 clarity what they are specifically.

5 But I know there are certain features the  
6 customer was asking for as part of the contract where our  
7 teams in R&D were saying we are not allowing the product  
8 today, and were not clear perspective of when they were  
9 going to be available. Still very horizontal type of  
10 functionality. So it was nothing I would say super  
11 specialized.

12 Q. So let me clarify this. You were speaking just  
13 about the customer?

REDACTED

14 A. No, generally. I think --

15 Q. You were speaking generally?

16 A. Yeah. Generally, you know, I have seen or I  
17 have heard from many of our people that they want more  
18 clarity in general so they don't get themselves exposed to  
19 selling the product wrongly.

20 Q. You've heard more generally that many people in  
21 the field want more clarity on the product so that they  
22 can sell it accurately?

23 A. Capabilities.

24 Q. Clarity on the capabilities?

25 A. Including partners. One thing I have done a lot

1 is a lot of partners meetings throughout the last year.

2 And partners have been also very keen on us to do that.

3 Q. Let me go back a bit to the capabilities that

4 are a concern. And I want to make sure I understand. You

5 think there are two areas where customers and partners

6 generally have expressed a desire for more clarity. One

7 being the scalability of the products, and the second

8 being the availability of certain, I believe you called

9 them horizontal features?

10 A. Yeah. I would say multi-currency comes to mind

11 is one that is not as complete that is supposed to be to

12 be able to serve on account of those.

13 Q. Okay. And a specific horizontal feature where

14 you need more clarity around what's available is

15 multi-currency?

16 A. As an example.

17 Q. As an example?

18 A. Again, I don't have the fine detail. Just as an

19 example.

20 Q. Do you have any other examples that come to

21 mind?

22 A. Features now, I have not spent the time to look.

23 I think I am not a specialist on the product for sure,

24 so --

25 Q. When you describe them as horizontal features,

1 what does that mean to you?

2 A. I would say these are product features that  
3 apply to the majority of the customers for certain type of  
4 size of customer. So the horizontal capability of the  
5 product that applies to many, many customers.

6 Q. So when you say the issue of the scalability,  
7 what does that mean to you?

8 A. Is the number of uses that can -- is the number  
9 of users that can use the product concurrently, especially  
10 in a transactional type of environment.

11 Q. And what have the concerns been there about the  
12 number of concurrent users?

13 A. Not being able to scale beyond what they may  
14 need in the next couple of years.

15 Q. Do these two areas, the scalability and the  
16 horizontal features, does that apply across all those MBS  
17 products or were you thinking of some MBS products in  
18 particular?

19 A. It is hard to generalize. Because, you know,  
20 for such an industry, there are products that are stronger  
21 than others. Solomon is a good example of a very strong  
22 product in informational services. It's very rich, very  
23 well integrated. But I would say, you know, as far as  
24 even in the midmarket space can be even -- can be stronger  
25 by adding some additional horizontal capabilities.

1 Q. In terms of the -- the meetings you said you've  
2 had with many partners and so forth, are these types of  
3 concerns about scalability and features things that they  
4 have raised with you?

5 A. Yeah, absolutely. In those meetings, yeah.

6 Q. Are there other things they have raised besides  
7 scalability and the horizontal features?

8 A. Oh, yes.

9 Q. What types of things have they raised?

10 A. I would say the credibility of the company at  
11 this point in time as a business applications provider is  
12 not as strong as it should be. So they were asking can  
13 Microsoft be more active on, you know, portraying where  
14 you really, you know, are playing or not. And I think our  
15 marketing can be more explicit about that. But generally  
16 Microsoft is not very well recognized as a business  
17 applications leader.

18 Q. You use the phrase credibility of the company.  
19 And then you went on to talk about marketing. So I guess  
20 I'd just like you to explain, what does the credibility of  
21 the company mean as you used it there?

22 A. Well, to sell to what we call business critical  
23 applications, especially in the applications space,  
24 business applications space, I think you need a series of  
25 qualifications. And Microsoft has some of them, those --

1 we don't have them all. And especially I think we are  
2 stronger in the midmarket. Clearly as we go higher up  
3 market, it gets more complicated and a lot harder to do.

4 So companies very well established in many  
5 angles, operating systems, they stop applications. But  
6 business applications is a new -- is a new area of the  
7 core business that the company is just really starting.

8 Q. You said that the -- a company needed a series  
9 of qualifications. Can you enumerate what you think those  
10 are?

11 A. Yeah. I would say deep expertise in all the  
12 products of the company markets. So I would say that's  
13 one. I don't think we're there yet. Ourselves, our  
14 forces or the people that talk to partners need to be  
15 trained better. And that would be that.

16 I think capabilities of being able to support  
17 these products with the application layer included, I  
18 think is also very important qualifier. Because many  
19 business depend on your ability to deliver 7 by 24  
20 availability of these products. So I would say those two  
21 are very important.

22 I think -- again I -- I think the products are  
23 quite strong in midmarket. I do believe the company can  
24 deal quickly a very credible position in midmarket. It's  
25 harder, as I said, as you get to do it in larger type of

1 organizations. But that is not our focus anyway, so --

2 Q. So if I can understand what you just said,  
3 the -- the partners were concerned about the credibility  
4 of Microsoft in the business applications space. And the  
5 two specific areas were related to having an expertise in  
6 the products, and also in support?

7 A. Yeah.

8 Q. And these partners that you were meeting with,  
9 those were midmarket partners?

10 A. Yeah, mostly. Again, this boundary is kind of a  
11 strange boundary. But they are, yeah, midmarket mostly.  
12 And again, some of them are involved in CAS accounts or  
13 more a divisional or branch.

14 Q. And then I think you said that it would be  
15 harder if Microsoft was trying to go above basically its  
16 current target markets, which we'll call midmarket and  
17 CAS; is that correct?

18 A. Yeah, I do believe that's a lot harder.

19 Q. And why would it be harder?

20 A. Again, I think the investment, even having the  
21 money, I think the time to get there would take us a long  
22 time. You know, we could even decide tomorrow, okay,  
23 let's just build a product to compete directly with SAP.  
24 Even that decision is made, I think the capability to be  
25 built here and include all the aspects I described before,



1 you know, it will take us years. Now, that's why I do  
2 believe that's not the smartest investment for the  
3 company.

4 Q. Okay. Let me see if I can understand what  
5 you've just discussed. You said even if Microsoft had the  
6 money and decided tomorrow to enter, I'll call it the GSM  
7 space --

8 A. You mean like the product I said?

9 Q. I'm sorry?

10 A. Even if we had the product?

11 Q. Even if you had the product.

12 A. Let's say a product ready technically.

13 Q. Okay. You had a product technically ready?

14 A. Yeah.

15 Q. Which you don't have now, in your opinion.

16 A. We don't have now.

17 Q. But if you had had a product that was  
18 technically ready, it would take you many years still to  
19 enter the GSM space?

20 A. Absolutely, I believe that.

21 Q. And I believe you said because of the many  
22 aspects that you've discussed already. Can you just  
23 enumerate those for me again, the aspects it would take to  
24 enter GSM, even if you had a product today already.

25 A. Well, let's just start with the fact that it's

1 very hard to dislocate an entrenched competitor. There is  
2 a lot of entrenched competitors there. A few of them are  
3 very entrenched.

4 Q. Let me just stop you right there. You have  
5 mentioned several times there are few competitors  
6 entrenched or established at the GSM level.

7 Could you just state who do you think those  
8 competitors are?

9 MR. WALL: Object to the form.

10 THE WITNESS: I would say companies that I  
11 believe are quite entrenched in the GSM space would be  
12 Oracle and PeopleSoft, Siebel to a certain extent.

13 BY MS. BLIZZARD:

14 Q. SAP?

15 A. I didn't -- did I say SAP? Whoa, I mean SAP.  
16 What did I say before? I'm sorry. I said Oracle.

17 Q. You said Oracle, PeopleSoft and to some extent  
18 Siebel.

19 A. And SAP, of course. I thought the second one I  
20 mentioned was SAP.

21 Q. So you were enumerating for me the aspects it  
22 would take for Microsoft to enter the GSM space, even if  
23 they had a product. And you were saying it's hard to  
24 dislodge existing players.

25 And the existing players are Oracle, PeopleSoft

1 and SAP?

2 A. Yes.

3 Q. Okay. And now let me go back -- you can go back  
4 and finish your answer.

5 A. Okay. Second aspect that I think is very, very  
6 hard to do, and this we speak by experience, really by  
7 experience, in a different type of business is really  
8 creating the partnerships that could provide very broad  
9 availability of expertise to customers in that space.

10 I would refer specifically to companies like  
11 Accenture, IBM for sure has no chance they will do it or  
12 with us. And mostly the global system integrators. And I  
13 say that because those companies are very focused on, you  
14 know, okay, they have to have revenues from services. So  
15 the cost for them to get themselves ready with a viable,  
16 credible Microsoft offer would be millions and millions of  
17 dollars.

18 Q. So let me ask a few more questions about that  
19 aspect, which I believe you referred to as partnerships  
20 with the major systems integrators.

21 Doesn't Microsoft as a large company already  
22 have partnerships with these system integrators?

23 A. We do.

24 Q. So why can't those partnerships just expand to  
25 include MBS products?

1     A. The reason I would say that -- they could. It  
2     could take us years and years, because I think that's what  
3     it took to us convince them that SQL Server was a viable  
4     product. It took us probably over 15 years to get those  
5     partners to really make the investment, to see an  
6     opportunity with SQL Server.

7             This is a long road, very long road and costly  
8     road. So unless Microsoft is ready to go on and say, "We  
9     are going to write a check for a very large amount of  
10    money so I can bond your readiness for the next three  
11    years," I think those partners would have a very serious,  
12    challenging business proposition to deal with.

13    Q. So I believe you're saying your experience with  
14    getting systems integrators to establish practices for  
15    other Microsoft products, such as SQL, and that case took  
16    something on the order of 15 years?

17    A. Probably less. I mean, it was right on the  
18    range of ten years.

19    Q. Ten?

20    A. Yeah, since we introduced the product a long  
21    time.

22    Q. And your estimate is that in order to get these  
23    partners for MBS products would take a similar amount of  
24    time?

25    A. I would say, yes. You know, again, their

1 business conditions right now, they are very established

2 with expertise. They are already selling there.

3 Q. When you say they're already selling there, are

4 you referring to a market segment like GSM or --

5 A. They are selling there with established

6 solutions, very well established solutions.

7 Q. And the established solutions would be the

8 companies you named before: Oracle, PeopleSoft, SAP,

9 Siebel?

10 A. Uh-huh, yes.

11 Q. Just to clarify, I was looking at financials and

12 human resources segment of ERP. Would I include Siebel as

13 one of the major players?

14 A. Human resources certainly you would do. And I

15 think there are, of course, customer relationship

16 management.

17 Q. I believe Mr. Wall asked you earlier about a new

18 MBS alliance, if you will, with BearingPoint. Do you

19 recall that?

20 A. Yep.

21 Q. So given what you've just said about the major

22 systems integrators not currently having nor do you see

23 them in any short amount of time developing MBS practices,

24 how do you reconcile that with BearingPoint having a new

25 alliance with MBS?

1       A. Yeah, I wanted to add the second word that I  
2 use, which is credible and significant practices. So I  
3 would never say that I don't manage to tell Accenture,  
4 "You want to try this?" I would say the time that it  
5 would take you to get it to a scale would be years.

6           Which is exactly what happened to us in a change  
7 is a great example, over years of us establishing that  
8 credibility. So I mean, I didn't say at all that we  
9 couldn't convince them and just go and train people and  
10 try some things. But it will take us years.

11       Q. So your -- is it your sense that the new  
12 MBS/BearingPoint alliance is something that you just  
13 described where you've convinced them to, say, train a  
14 small number of people to try something?

15       MR. WALL: Objection, no foundation.

16       THE WITNESS: No, there's two things in there.  
17 One, I think that BearingPoint alliance, which I don't  
18 really know in fine detail, but I know the directions we  
19 have given to our people with respect to GSI, is to ensure  
20 that we could ramp up that, given the fact that mostly  
21 midmarket they could establish presence faster and quicker  
22 than they could establish presence in the higher end with  
23 our products.

24       So those GSIs are also looking for opportunities  
25 to find service and revenues coming from lower parts of

1 the marketplace. So I would say is more targeted to do  
2 that, because they well know that establishing -- you  
3 know, going higher end take them a long time and money to  
4 be able to do it.

5 BY MS. BLIZZARD:

6 Q. Okay. And please correct me if I'm not  
7 understanding you. You believe that the MBS/BearingPoint  
8 alliance is focused on the midmarket?

9 MR. WALL: Objection, no foundation.

10 THE WITNESS: As I say, I don't know the  
11 details, the fine detailings of this. But the direction  
12 of engaging GSIs is, given the fact that they want to also  
13 find the opportunity for growth, I would say it would be  
14 midmarket and potentially some spokes and that they close  
15 to.

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19 Q. Okay. You would be very surprised if the

20 BearingPoint alliance was focused around GSM?

21 A. Yes, ma'am. Yes, exactly.

22 Q. Okay. Because you believe it would be very

23 expensive for BearingPoint to grow a Microsoft practice to

24 support?

25 A. For those type of very highly complex



1 environments.

2 Q. For those types of highly complex environments.

3 And are you speaking there about the MBS products in those  
4 environments?

5 A. I do. And also the fact that the products, you  
6 know, not necessarily are ready to do that. So that's why  
7 I would be very surprised.

8 Q. And I believe you said this alliance was -- or  
9 is being developed by somebody on your staff; is that  
10 correct?

11 A. Yes.

12 Q. Have you given any direction to the people on  
13 your staff about how to cultivate these alliances?

14 A. No, not very precise. Again, probably the plan  
15 I'm putting in place is to ensure that we provide even  
16 more precise guidance to all of our people with respect to  
17 what environments we should engage GSIs or any of the type  
18 of conversations with partners with respect to the  
19 capabilities of our products and marketability to sell and  
20 market our products.

21 Q. And this more precise guidance that you're  
22 working on, does it include at this stage making alliances  
23 with the systems integrators for the GSM market?

24 A. No.

25 Q. Why not?

1 A. Because we don't even have a product for that  
2 space.

3 Q. If systems integrators have the impression that  
4 you're targeting the GSM space, is that an accurate  
5 impression?

6 A. I don't think it's accurate.

7 Q. To the -- if someone on your staff responsible  
8 for developing these alliances was, in fact, telling  
9 systems integrators that you were targeting the GSM space,  
10 would that be correct?

11 A. That would be incorrect.

12 Q. Let me try and get us back to we were discussing  
13 the different -- you were listing the different aspects  
14 that you thought it would take Microsoft to enter the GSM  
15 space, even if you had a product today ready to go to  
16 market. And you had already talked about how it was hard  
17 to dislodge the existing top vendors. And then you were  
18 discussing the partnerships with systems integrators.

19 Are there other aspects you think Microsoft  
20 would -- would need to enter the GSM space, assuming it  
21 had a product ready?

22 A. Not one that comes really to mind right now.

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1 Q. Is it your understanding that Oracle,  
2 PeopleSoft, SAP use a direct sales force to target GSM?

3 A. Yeah, for the most part they do.

4 Q. And what's the difference between that type of  
5 direct sales force and the sales force that Microsoft has  
6 for its MBS products?

7 A. Well, most of our revenues, as we stated by us,  
8 98 percent of our revenues flow through partners. So  
9 partners is really our sales force. So when I talk about  
10 inability to create partnerships, it's really that  
11 inability to provide that -- a meaningful sales force that  
12 can sell that directly. Not directly, but you know, in  
13 certain volume to those customers. I say in some ways for  
14 us the GSM SIs are part of our sales force through other  
15 products. And they do a fair job for us.

16 Q. So let me just clarify that. You said 98  
17 percent of revenues are through partners. Was that  
18 Microsoft-wide or is that MBS?

19 A. Microsoft wide.

20 Q. That's Microsoft-wide; okay.

21 A. True for MBS, too.

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7 Q. Does the MBS sales team have any plans to change  
8 the way they sell their products? For instance, to  
9 increase that two percent to some other figure?

10 A. Anything we believe that one of the advantages  
11 of Microsoft is our partner capabilities. So no plans.

12 Q. I've seen some discussions in the press and  
13 analyst reports that, you know, quote Microsoft is hiring  
14 a direct sales force for MBS.

15 Is that an accurate statement?

16 A. Totally inaccurate.

17 Q. Were you hiring -- to your knowledge, are you  
18 hiring people away from Oracle, PeopleSoft and SAP for  
19 their direct sales experience?

20 A. We hire from many sources. So I couldn't  
21 categorically say no or yes. I would say we looked at --  
22 for the expertise in business applications broadly. And  
23 these are companies that certainly may be a source of  
24 these type of expertise.

25 Q. So to the extent MBS is hiring people from

1 Oracle, PeopleSoft or SAP, you think the focus would be on  
2 their business applications experience? You probably need  
3 to say -- even though it's being videoed, you probably  
4 need to say yes for the court reporter.

5 A. I didn't know you stop on the question. So I  
6 was waiting for you to finish.

7 Q. Sorry, sorry. Maybe I should just back up. To  
8 the best of your knowledge, if Microsoft is hiring  
9 salespeople from Oracle, PeopleSoft and SAP, it would be  
10 doing that to gain their knowledge of business  
11 applications; is that correct?

12 A. It would be our intention to beef up our  
13 knowledge, so the amount of expertise that could help with  
14 allow in our midmarket and spoke efforts.

15 Q. It would not be because you're trying to  
16 establish a direct sales force that's similar to the  
17 direct sales forces that Oracle, PeopleSoft and SAP have?

18 A. Absolutely not.

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20 Q. So in addition to the customers and partners we  
21 were just talking about, another whole group you were  
22 trying to target are the analysts and reporters?

23 A. Yes.

24 Q. What do you think are some of the expectations  
25 that the analysts and the reporters have that you want to

1 clarify?

2 A. I would say what type of customer we are trying  
3 to sell to. I think they want to understand that better.  
4 I think they want to understand our relationship of that  
5 versus the way we sell in the marketplace. They want to  
6 understand and be assured that our investments are  
7 consistent with that strategy. So I would say those are  
8 very important things.

9 Q. In the year or so that you've been working with  
10 the MBS group and in your current position, do you feel  
11 that analysts and reporters have had an accurate view of  
12 MBS or not?

13 A. We are making progress. I don't think they  
14 really have an accurate -- have had an accurate -- totally  
15 accurate view of what the company is really trying to do  
16 in this space.

17 Q. What are some of the inaccuracies that you've  
18 seen?

19 A. I would say the type of customers we're selling  
20 to. It is not very clear in their minds what type of  
21 scenarios, what type of customers Microsoft is truly,  
22 truly targeting.

23 Q. Let me stop you right there. And why don't you  
24 just explain to me what type of customers and scenarios --

25 A. Yeah, I --

1 Q. -- you are talking about?

2 A. I specifically refer that the mainstream of the  
3 Microsoft strategy for the time being in probably the next  
4 five years is about selling to the midmarket. We make it  
5 even -- I think the spoke is an opportunistic type of  
6 sale, depending on the capabilities of the part, most  
7 related to the CAS space. And we may be better at, you  
8 know, doing the spoke over time. I think that's not as  
9 crisply understood by people.

10 Q. When you say a spoke is an opportunistic sale,  
11 what do you mean by that?

12 A. I say there will be a spoke scenario as well.  
13 Our product would not be one.

14 Q. What would be one of those spoke scenarios where  
15 the Microsoft approach wouldn't fit well?

16 A. I would say highly transactional scenarios.  
17 Given the fact that we -- that our challenges in the  
18 transactional side may be scenarios that we -- we may not  
19 be able to offer a solution for.

20 Q. Does highly transactional relate to the concerns  
21 you were discussing earlier about scalability?

22 A. Oh, absolutely.

23 Q. And how do those relate?

24 A. Well, the way customers they generally -- there  
25 are many benchmarks. And those benchmarks are well



1 understood by the industry. And those benchmarks speak of  
2 how many users concurrently you can do certain type of  
3 scenarios, including transactional scenarios. To try to  
4 determine scalability, how much I can really grow this  
5 product.

6 Q. Have there been specific concerns about  
7 benchmarks for MBS products in the last year that you're  
8 aware of?

9 A. No, I think the concern is more around  
10 characterizing benchmarking capabilities of the product  
11 more specifically in writing. So more than being a  
12 general concern about the power to, you know, is the part  
13 basically a by product, is more about what scenarios. We  
14 have to characterize more clearly and in writing what  
15 scenarios fits and which ones it doesn't. So we are  
16 trying to clarify that very crisply.

17 Q. And when you say you're trying to clarify it  
18 very crisply in writing, are there -- are there writings  
19 out there that were not as crisp? Is that sort of the  
20 root of the problem?

21 A. Yeah, I would say that would be a root of the  
22 problem.

23 Q. Okay. What sorts of writings are those?

24 A. Benchmarking writings. I mean, loads. All  
25 those type of documents that your customers use usually.

1 And remember that these things even in writing are  
2 generally statements that should have a disclaimer that  
3 says we need to understand unique customer requirements to  
4 really make these numbers to apply for our customer.

5 Q. Are you familiar with a specific benchmark for  
6 Axapta that says it can have on the order of 3,000  
7 concurrent --

8 A. There are benchmarks of Axapta. I don't recall  
9 exactly the upper end. That's something that, you know, I  
10 know some numbers. But again, one of the things I'm  
11 asking people to provide back to us, especially the  
12 engineering teams, is some set numbers that they are going  
13 to stand behind.

14 Q. And is your concern that some of the numbers  
15 that have gone out in written Microsoft materials have  
16 not -- not accurately portrayed what the product can  
17 actually do?

18 A. There may be a case where, you know, some  
19 scenarios haven't been as scoped as deeply as we were  
20 supposed to to deliver the right solution to the customer.

21 Q. Are you thinking of particular materials or  
22 scenarios?

23 A. Yeah, benchmark white papers.

24 Q. Are those specific Axapta benchmarking white  
25 papers?

1 A. We do benchmarking white papers for all of the  
2 Microsoft MBS products.

3 Q. Do you know if those are posted on the Microsoft  
4 web site or --

5 A. They should be there.

6 Q. I get the sense from your discussion that  
7 perhaps you wish some of them weren't there.

8 A. Yeah, in some ways transparency to the customers  
9 is what I am for. I don't want to just say that I satisfy  
10 our customer because I sign an order. These companies  
11 will stay for a long time in business. We better care for  
12 the customer.

13 Q. Okay. Let me go back to Government 162 again on  
14 the first page. Moving down about a sentence, but still  
15 in that first paragraph, it says,

16 "I do believe a real part of the problem today  
17 is that there are no boundaries, so everyone seems to  
18 believe we should go for a lot of things including  
19 geo expansion in all markets -- all big markets,  
20 multiple lines in more countries than we can afford,  
21 et cetera, et cetera, et cetera. As Steve B puts  
22 it," that would be Steve Ballmer, "our eyes are  
23 bigger than our stomach."

24 What is it that you were trying to convey by  
25 that sentence or two sentences there?

1       A. Two things come to mind as very precise examples  
2 to illustrate the point. I think customers with  
3 multinational presence, there was a tendency to believe  
4 that we are able to support Axapta pretty much everywhere  
5 where they had offices.

6       And clearly they have caused issues with  
7 customers that go to Japan and say, "Okay, I'm ready for  
8 the Japanese installation of Axapta. Where is it?" Well,  
9 it's not going to be here for the next two years. So when  
10 I say our stomach -- our eyes seem to be -- or when Steve  
11 says that, it is really referring to the fact that we have  
12 to be very precise.

13       If we're going to say to a spoke situation, got  
14 to tell them very clearly what's the capability of the  
15 product, what countries you have support and which  
16 countries you don't have support, to ensure a customer  
17 walks into a situation with wide-open eyes. If that means  
18 for us to lose the deal, we'll lose it.

19       Q. And why is it preferable to lose those deals?

20       A. As a leader of this group, I do believe you  
21 don't build relationships for one year. You really -- I  
22 really believe in the lifetime experience of our customer  
23 should be there at all times. So it is the only way you  
24 will build credibility.

25       Q. Would it be fair -- and please correct me -- if

1 I could somewhat sum up some of your concerns by saying  
2 that in trying to build credibility by making sure you  
3 don't oversell the product?

4 A. Yeah. There may be some of that. I don't say  
5 that that was basically my intention or I intended and  
6 premeditated way people was trying to do things. I think  
7 it's more we didn't take the steps to clarify precisely so  
8 the sales force can do a responsible job selling these  
9 products.

10 Q. So you're saying that you don't blame the sales  
11 force for, quote, overselling the product, but there  
12 wasn't enough clarity for them to focus on the customers  
13 they could best serve?

14 A. Being the leader of the team, I take the  
15 accountability for not providing more detailed guidance.

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2 Q. Okay. So looking at Chanel, a partner sold them

3 a spoke solution?

4 A. Uh-huh.

5 Q. And the -- and that solution was Axapta?

6 A. Uh-huh.

7 Q. And that was going to be implemented in a number  
8 of countries in the world?

9 A. Yes.

10 Q. And the concern was that the partner had  
11 represented that they could implement it in Japan?

12 A. I would say there was a date to be set on when  
13 this was going to happen. That was not entirely accurate.  
14 In fact, it was very inaccurate.

15 Q. So the partner communicated and told Chanel that  
16 they could do an Axapta implementation in Japan in a  
17 certain date, when in fact they couldn't?

18 A. Yeah. I think that. And as I said before, I  
19 think lack of priority from Microsoft in saying and  
20 putting that statement in the ground and says, this is the  
21 date, we are behind that date --

22 Q. Right.

23 A. -- was part of the problem.

24 Q. And why couldn't they implement Axapta in Japan  
25 at that time? What was the problem?

1 A. Well, first of all, the product was not ready.

2 You need double byte enablement.

3 Q. So there was a specific functional capability

4 with the product --

5 A. The tangent capability of the product.

6 Q. So the product did not have the capability to

7 implement Kanji or the native language in Japan?

8 A. Double byte translation is always kind of very

9 challenging.

10 Q. And the -- just so I get all these pieces

11 straight. And Kanji takes something calls double byte

12 translation, which is different than, I'm guessing, single

13 byte translations, which is what you use for English and

14 other countries?

15 A. Yes.

16 Q. Okay. So Axapta didn't have this capability.

17 Is it going to have this capability?

18 A. Yeah, we will enter the Japanese market. I

19 think, as I said, the product just isn't one piece.

20 Q. I'm sorry?

21 A. The product is just one piece of the strategy.

22 Q. The product is just one piece --

23 A. I always talk about the complete element.

24 Q. I don't mean to talk over you. I'm sure we're

25 driving the court reporter insane. Just looking at the

1 functionality of the product, the key issue as you  
2 understand it was it didn't have the double byte  
3 translation into Kanji?

4 A. Right.

5 Q. And just looking at the function of the product,  
6 do you expect Axapta to have that functionality at some  
7 point?

8 A. Oh, yes.

9 Q. And is there a rough time frame for when that  
10 will happen?

11 A. The current published time frame, which we will  
12 be communicating soon, is I want the communication to go,  
13 I will stand behind that communication, is 18 months.

14 Q. 18 months from now. And when was Chanel  
15 promised or told that they could implement Axapta in  
16 Japan?

17 A. I don't know the exact date exact. But I know  
18 it was a lot sooner than that. I think it was within a  
19 year was their expectation to have this product, you know,  
20 ready to go.

21 Q. Are there any other significant functional  
22 issues with Axapta?

23 A. Not that I am aware of in that case. Again, I  
24 am not as close to obtaining the specs that they are  
25 looking for. What I do know is that the installations



1 that they have been able to put in spokes they are happy,

2 very happy with it.

3 Q. So you're saying in other installations Chanel

4 is happy?

5 A. Yeah.

6 Q. Okay. And I believe you mentioned in addition

7 to the functionality of the product, there were concerns

8 about support in Japan; is that correct?

9 A. Very important element, as I said before.

10 Q. What were those concerns?

11 A. Well, the fact they wouldn't have people that

12 supports the product. And we don't have the subject

13 matter expertise to support those products. We don't have

14 the salespeople that sell those products. So you know,

15 when I sit down with the CIO, I was telling them that we

16 really needed to be very clear. Because they may be

17 expanding to other places. Even if the product is there,

18 it doesn't mean we can support them as well.

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11 Q. Okay. In terms of the support functions, you  
12 were saying that you didn't have support personnel or  
13 sales personnel.

14 Did you name another type of personnel?

15 A. Marketing.

16 Q. Marketing.

17 A. Sales marketing, support, we don't have the  
18 partners.

19 Q. Don't have the partners?

20 A. That's going to take us for sure time to build.

21 Q. And why will that take you for sure time to  
22 build?

23 A. Japan is a very unique market. Although I would  
24 characterize the partner challenge very similar in a lot  
25 geographies. So we got to find the right set of partners

1 that can sell more than just one customer. And change in  
2 Japan not necessarily what they like to do. So it will --  
3 it will take us time. I will say we will be in Japan  
4 really mainstream my projection would be by the end or the  
5 beginning of year 2007.

6 Q. So you expect MBS --

7 A. The beginning of 2007. Two years.

8 Q. Two years; okay. So if I've put all that  
9 together correctly, you expect to have the MBS products in  
10 the mainstream selling in Japan --

11 A. For midmarket.

12 Q. For midmarket, at the beginning of fiscal 2007,  
13 which is approximately two years from now?

14 A. Yeah.

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4 Q. Okay. So for Chanel they are training their IT

5 staff?

6 A. Yeah.

7 Q. To be Axapta fluent, if you will?

8 A. Knowledgeable.

9 Q. Or knowledgeable?

10 A. So if I'm not mistaken, what they have is

11 actually implementation teams, internal Axapta

12 implementation teams from Chanel. At times use the

13 partner to help implementation. But as they move with the

14 time, they are getting more self-sufficient and doing it.

15 Q. Is Chanel having any other problems with some of

16 their spoke implementations?

17 A. Not that I'm aware of.

18 Q. And I believe we started the discussion of

19 Chanel by you listing it as an example of a case where, as

20 Steve Ballmer put it, our eyes were bigger than our

21 stomach?

22 A. Exactly. We ate all of.

23 Q. That's okay.

24 A. But it's a good example.

25 Q. Can you think of any other examples, customers

1 like that?

2 A. Well, more than customers, it's really countries  
3 in which I know --

4 MR. WALL: Excuse me. What did you say?

5 THE WITNESS: Countries. Countries. I would  
6 say in places like Brazil is a good example. We don't  
7 have the capability to invest in four multiple ERP lines.  
8 So I guess nobody has told the country that we are not  
9 going to do four lines. So some people sold, midmarket  
10 customers sold, you know, all these lines. And I know we  
11 cannot support four whole lines in Brazil.

12 BY MS. BLIZZARD:

13 Q. So would it be -- would it be fair then to say  
14 that there are countries where you are similarly concerned  
15 that partners have sold products that you do not have the  
16 means to support or implement or they don't have the  
17 features that will meet those customers' needs?

18 A. That is correct.

19 Q. Let me turn back to 162.

20 A. Just wanted to make that I'll tell you, it's  
21 been a humbling experience to get into this business.

22 Q. It's been a humbling experience in the last  
23 year?

24 A. It's very highly complicated, even for the  
25 midmarket.

1 Q. And let me ask you just to expand on that. Why  
2 has it been humbling?

3 A. Well, because I think as a company perhaps our  
4 business model has been of high velocity of business.  
5 These are sales that take a lot of time and resource and  
6 very expensive to do. Even with great partners like ours,  
7 it's expensive to do. You need a lot more support.

8 So in some ways I think putting boundaries  
9 around is really acknowledging the fact that you don't get  
10 into this business overnight. You really don't. Even for  
11 midmarket. We just -- our ability to be, quote, unquote,  
12 "a multi-country player" in the business applications  
13 space, it will take us years, even for midmarket. So  
14 market share is still very small. Not to say -- I mean,  
15 in the enterprises space, forget about it, you know. But  
16 no chance.

17 Q. Okay. When you say that it's been a humbling  
18 year, are you sort of contrasting your experience this  
19 year to your prior experience as head of sales for a  
20 different set of products?

21 A. Absolutely.

22 Q. And what -- and what -- what is the difference  
23 between this past year and your prior year?

24 A. I was not as acutely aware of how hard it is to  
25 get into these type of -- how hard it is to get into these

1 type of business. I mean, I will say -- let me tell you,

2 give you an example which I think is now very true.

3 If you talk about entrenchment and the

4 capability to convince a customer to change something, I

5 think the thing that touches closely business process is

6 the hardest thing to change, the hardest. That's why I

7 would say that at the top of the enterprise in GSM it's

8 very, very difficult to enter, very difficult.

9 Virtually you come to our CIO and say, "Okay,

10 let's change his AP." Probably we have to be thinking of

11 writing a hundred million dollar check. And I'm sure

12 that's not going to fly by. I'm totally sure. So that's

13 why it's very humbling. It's a lot more than I expected

14 it. It's harder, very hard.

15 Q. Is the -- is the sales cycle or sales process

16 for business apps that Microsoft is trying to sell now, is

17 that a lot different than the sales process in other parts

18 of Microsoft?

19 A. Absolutely.

20 Q. And how is it different?

21 A. It's all a longer shelf cycle. When customers'

22 making the decisions, they know they're bringing their

23 business, their business logic into the computations. A

24 lot longer, a lot more expensive.

25 Q. A lot more --

- 1 A. Expensive.
- 2 Q. A lot more expensive, the sales cycle is longer
- 3 and more expensive for the partner and for Microsoft?
- 4 A. Correct, correct.
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5 Q. And what do you mean by focus? What do people  
6 need to do?

7 A. Number one, in what countries with what products  
8 when. Very important.

9 Q. So is your plan to, as you said, rewind or go  
10 back and support, does that mean -- and I ask this, does  
11 that mean you want to support fewer products in fewer  
12 countries?

13 A. We will market -- I really -- support, you  
14 shouldn't use the word support. I have a problem with  
15 that one.

16 Q. All right.

17 A. I would say if I'm going to go to a country, I'm  
18 going to do the right job, the good job, and it's not only  
19 support. The right marketing, the right partners, the  
20 right customer experience. So it's very important as a  
21 concept.

22 So yeah, there will be, you know, some fewer,  
23 you know, products. The products will be there, but we'll  
24 focus the full close loop of selling on marketing and  
25 supporting these products, you know, a lot more precise

1 way. And that's been communicated both internally to our  
2 partners and to our customers.

3 Q. So one of the main things you're going to do is  
4 you're going to, to use your word, go to fewer countries  
5 with fewer products?

6 A. Not necessarily fewer countries. I would say  
7 fewer products.

8 Q. Fewer products in the same countries that you go  
9 to now?

10 A. Yeah.

11 Q. Okay. So -- and just so I understand that.  
12 That means that you're going to not sell all four product  
13 lines in every country that you go to, but instead pare  
14 down the four --

15 A. Correct.

16 Q. -- country by country?

17 A. Correct.

18 Q. Is that correct? Okay.

19 A. So that would be one is product. Number two  
20 would be enabling the expertise broadly for those products  
21 that we pick in those countries.

22 Q. And what do you mean by enabling the expertise?

23 A. Training our partners and training our people.

24 Q. And does that apply across whatever products are  
25 being sold in a particular country?

- 1 A. You got to do the full cycle. If you're going  
2 to do it, you got to do it right. So in that country we  
3 committed, we're going to make the investment to do it  
4 right.

5 Q. Is -- is the -- let me start again. I've heard  
6 Doug Burgum say things about Axapta being the newest,  
7 freshest code base and so forth.

8 Is there a focus on this -- in this plan that  
9 you're putting in place on Axapta as the product that  
10 needs the most focus or would you say that's not true?

11 A. No, it's not necessarily true. Axapta I would  
12 say is the probably more common product because you are  
13 going to find that across your purpose. But it's not the  
14 only one. Clearly Navision and Great Plains are very  
15 important to us, too.

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21 Q. Okay. So the first two -- first two focus  
22 factors, if I can call them that, are to be clear about  
23 which products are going to be supported in the countries  
24 that you go to. The second is enabling expertise by  
25 training the partners and people.

1           And what would be next?

2       A. Third would be our investment on helping our  
3 partners on our teams to characterize the capabilities of  
4 our products in a practical way so we deliver the right  
5 value to customers. Two examples of that.

6           Number one is this supports the centers of  
7 expertise that were referred before during this  
8 deposition. And the other one would be what I call a  
9 business desk.

10          And that business desk's goal is to ensure that  
11 under certain suspicious scenarios, as I call them,  
12 meaning we are not quite sure of the product qualities, I  
13 want that resource to be available to partners and  
14 customers, and they make the final word. In a list the  
15 business desk says, yes, we will not sell to that  
16 customer.

17       Q. Okay. Let me ask you a few more questions about  
18 this business desk. Is that something that exists now or  
19 is that a new thing?

20       A. It doesn't exist for the MBS products. It does  
21 exist for other Microsoft products.

22       Q. And you plan to create it for the MBS products  
23 for the coming fiscal year?

24       A. That's my plan. And we are going through that  
25 right now to see how and if we can afford it.

1 Q. And I believe you said the business desk will  
2 evaluate, did you call them suspicious scenarios?

3 A. Yeah.

4 Q. What's a suspicious scenario?

5 A. One that basically goes beyond the capabilities  
6 of the product. Borderline. If the combination of the  
7 problems for that customers seem like Axapta will not be a  
8 product can fit in to properly deliver the solution for  
9 the customer, then we should just walk away from that  
10 business.

11 Q. What are some of the factors that you use to  
12 evaluate as to whether something is a suspicious scenario?

13 A. The two that I mentioned before, scalability and  
14 completeness of the solution in terms of horizontal  
15 capabilities to deliver on the specific customer  
16 requirements.

17 Q. Have you fleshed that out any more to see  
18 what -- what types of things, either scalability or  
19 horizontal, would in fact trigger it being a, quote,  
20 "suspicious scenario"?

21 A. I think the base for this is going to be the  
22 white papers on benchmarking, and the detailed list of  
23 capabilities of the product that already exist. So the  
24 combination of those two with the scoping for our  
25 marketing people should help us make a relatively good --

1 I would say a fairly solid decision.

2 Q. And when you say the white papers on  
3 benchmarking, are those the new ones that are going to be  
4 created or are those the existing ones?

5 A. The existing ones and new ones.

6 Q. Existing and new ones? And I believe you also  
7 referenced some technical descriptions of what the product  
8 does.

9 Do those exist already?

10 A. Yeah, there's a very detailed series of features  
11 that every product has, if even per industry, that can be  
12 a very good base for mapping against what a customer wants  
13 to do, then we can decide we do or not.

14 Q. So is the plan that the partners will have these  
15 documents, and they will compare the customer's needs to  
16 what's in those documents?

17 A. For the most part partners should use these  
18 documents to do a great job without Microsoft being  
19 involved for the scenarios we have told them they could  
20 sell, which is midmarket and the spoke scenario. And if  
21 after doing that there's still questions of those  
22 partners, we're going to make that resource from Microsoft  
23 available to them so they can go further investigate the  
24 customer requirements.

25 Q. Is the -- is the -- will the process be one

1 where the partner has to bring suspicious scenarios to the  
2 business desk for review?

3 A. Yeah. That would be the idea.

4 Q. And how will the partner know that what it's  
5 looking at qualifies as a, quote, "suspicious scenario"?

6 A. I'll just give you an example, because it's hard  
7 to be comprehensive on that, as many of these things have  
8 been defined. Anything that exists, the published numbers  
9 or features that are not officially endorsed by Microsoft  
10 have to be submitted.

11 And for the investigation of that business desk,  
12 you know, we can conclude or not conclude that given the  
13 road map of the product we could, you know, supply that  
14 solution. So I would -- I would say anything that  
15 deviates from the published specifications.

16 Q. I think it's possible that Doug Burgum also  
17 mentioned this business desk concept. And I think he  
18 alluded to there being a size-of-deal cut off.

19 Is a size-of-deal cut off something that you're  
20 considering for the business desk or not?

21 A. To -- yeah, absolutely. Because the size of  
22 deal will tend to indicate, you know, that not necessarily  
23 a hundred percent, but would tend to indicate the level of  
24 complexity you're going to be dealing with. So we -- as  
25 part of this, as we have done in other parts of the

1 business, certain size of opportunities have to be signed

2 off at the VP level.

3       You know, we -- not only because of the

4 commitment the partner is making to the customer, but the

5 commitment of Microsoft. So that VP is in the best

6 position to basically either on strategy or out of

7 strategy, I made the right call.

8       Q. And do you have any sense of what the size of

9 deal cut off might be or what numbers are being discussed?

10      A. Not for MBS. Not yet. Not clear yet.

11      Q. Do you have any sense of what the just average

12 deal size is for an MBS sale?

13      A. Yeah, I think -- again, it is always a very hard

14 question, because is it just a software or the services

15 included? Remember, we don't make revenue from services

16 as the most important part of the sale. The services

17 revenue includes the partner. That makes Microsoft

18 different to all the others, basically, because the others

19 are pushing the services revenue very hard. We're not.

20       So if you asked me about, I would say, an Axapta

21 average deal, the numbers I have seen published probably

22 in the range of a hundred eighty thousand, \$200,000 on

23 software.

24      Q. So on software licensing for Axapta, you just

25 said a hundred and eighty to 200,000 is in the range of an



1 average deal?

2 A. Yeah, I would say.

3 Q. When you're looking at creating this business  
4 desk size-of-deal cut off above which the partners will  
5 have to get VP approval, are you trying to target say  
6 something that's, I don't know, 50 percent above the  
7 average?

8 MR. WALL: Objection, no foundation, calls for  
9 speculation and leading.

10 THE WITNESS: We will look in detail of what  
11 should be the right series of indicators for us to  
12 determine that. The ultimate job and responsibility of  
13 that group is to ensure that the company does not get,  
14 first, out of its strategy.

15 Which is, are you really selling into the  
16 environments the company has established? Including,  
17 again as I said before, the midmarket deals and CAS deals  
18 on this whole -- on the hub and spoke situations where  
19 there hopes to be something else, but you do the spoke.  
20 That's going to be a very important indicator.

21 It is size of deal is large enough, and we  
22 basically to just trigger immediately, then those -- those  
23 people should look immediately for that. For, you know,  
24 are we really able to meet the requirements of the  
25 customer? So size of deal would be a trigger, a very

1 important one, that will alert that group of the company

2 in getting into situations where the products are not

3 ready for.

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21 Q. Okay. So just roughly speaking, you're look to

22 go target roughly five percent of the Axapta deals for

23 review by the business desk?

24 A. Yeah. My expectation for the most part

25 multinational deals on the spoke scenario that I described

1 before. So small.

2 Q. Okay. And you also -- you anticipate that that

3 roughly five percent would be focused on multinational

4 spoke scenarios; is that what you just --

5 A. Yeah.

6 Q. -- said?

7 A. It's the most complex deals within the

8 boundaries of the segments that we have targeted, targeted

9 as opportunity.

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23 Q. So the highly complex deals where Microsoft is

24 concerned about overcommitting are the target deals you

25 want to go through the business desk?

1     A. Yes.

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20 Q. And when you say CAS budget, what does that  
21 mean?

22 A. Is the amount of revenue to be generated on what  
23 we define as the CAS space.

24 Q. Okay. So that's a revenue target?

25 A. Yeah.

1 Q. So the CAS revenue target for fiscal '04 was a

2 hundred and four million?

3 A. Was a hundred four million.

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Q. All right. I think I'm done with that one. Let  
me ask you one more sort of sales set of questions. Do  
you know a gentleman named Bill Pollie?  
A. I know Bill.  
Q. Who is he?  
A. He is -- was assigned to sell into the midmarket  
corporate accounts based in the U.S.

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9 Q. Okay. Do you know what his title is?

10 A. Not really.

11 Q. Do you know anything about changes to his role  
12 or his title?

13 A. Yeah. He's changing roles as we speak.

14 Q. So why don't you describe that for me. What is  
15 he changing from, to?

16 A. We -- actually, it's not clear where he is going  
17 to go. But he's not going to be doing what he's doing  
18 today.

19 Q. And what is it that he's doing today?

20 A. Selling I would say with partners into the  
21 CAS-type customers midmarket.

22 Q. So his focus was on upper midmarket in CAS?

23 A. Yeah.

24 Q. And he was selling with partners into those  
25 opportunities?



1     A. Yeah, he was selling with partners at that time  
2     portrayed as selling direct from Microsoft, which I  
3     totally believe was not the strategy.

4     Q. Okay. So you said he -- do you believe at times  
5     he tried to sell direct from Microsoft?

6     A. Correct.

7     Q. Okay. And that's contrary to Microsoft's  
8     strategy?

9     A. Absolutely.

10    Q. Does this relate to why he's not going to have  
11    this position?

12    A. I would say it's related to that. I think he  
13    was in the wrong position. And we may find -- we are  
14    looking at several opportunities to see where it has  
15    transpired. And we'll make a final decision of what's  
16    going to happen for him.

17    Q. And what are the things you're considering for  
18    him?

19    A. I imagine that it's closer to them is looking  
20    into the detail. I have expressed my opinion about people  
21    that are getting out of strategy. Either they basically  
22    understand where the company strategy or they should move  
23    on.

24    Q. And you feel that -- thank you. Do you feel  
25    that Bill Pollie was out of strategy?

1       A. I would say there's a couple of instances. Just  
2 today I actually saw a document that is written actually  
3 in a web site that says that makes a very large  
4 generalization of what our products are.

5           So I don't mean he intended that to be -- do  
6 that maliciously. I think it was just a bad portrayal of  
7 trying to say these products actually do more than they  
8 are supposed to do.

9       Q. So we've talked several times today about this  
10 concept of our eyes being bigger than our stomach and so  
11 forth.

12       Do you think that Bill Pollie was one of the  
13 people whose eyes were bigger than his stomach?

14       MR. WALL: Objection, leading.

15       THE WITNESS: Can't tell really. I mean, I just  
16 can speak of the facts that are being put in front of me.  
17 And clearly I don't like people portraying our products in  
18 a way that is basically is not very clear that they meet  
19 the customer requirements.

20       BY MS. BLIZZARD:

21       Q. Do you think that -- why don't I put it this  
22 way. What facts were in front of you about how Bill  
23 Pollie was portraying the product?

24       A. As I said before, I have seen some of his  
25 characterizations actually in printed paper. Which

1 includes a report from him that I think doesn't  
2 characterize things the proper way. And I guess through  
3 their management change -- chain there had been also  
4 issues and concerns about, you know, doing more about  
5 sales, direct-sales-type of activity from his side as  
6 opposed to being a strategy.

7 Q. And the quotes that you've seen in print about  
8 him, do you remember what those were?

9 A. I don't have exactly wording. But talking in a  
10 very general way about this person, I find the most  
11 demanding ERP applications, it's just not correct.

12 Q. Would you -- would you -- would you say that he  
13 was overselling the products?

14 A. Again, I would need to get into, you know, the  
15 fine details of every one of these things. I do know that  
16 the issue was raised. I know that action has been taken.  
17 I know it's not his job anymore.

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24 Q. I'm going shift gears a little bit here and I  
25 want to talk about a series of news articles. I believe

1 you mentioned earlier that one of your goals for the next  
2 fiscal year was to be precise and accurate in materials  
3 that would be conveyed to, among others, reporters.

4 A. Correct.

5 Q. Is that correct? If you can turn to what was  
6 marked as Defense 1308, this is a CNET News article that  
7 you discussed briefly before with Mr. Wall. Your  
8 Counsel's getting it for you.

9 A. Thanks.

10 Q. At the beginning there's a message from Carlene,  
11 I believe it is. In the last paragraph right before she  
12 says, "Thanks, Carlene," in fact, the very last sentence  
13 of that it says, "We could also do a better job of  
14 articulating how well we are poised to sell up solutions  
15 and not down like our competitors. That's our heritage  
16 and we should talk about it more."

17 What does that mean to you?

18 A. Can I see that again?

19 Q. Sure.

20 A. Where is it?

21 Q. Your counsel will help you.

22 A. Okay. Got it. Okay. Yeah, the question is?

23 Q. And that very last sentence in particular, "a  
24 better job of articulating how well we are poised to sell  
25 up solutions and not down like our competitors. That's

1 our heritage, and we should talk about it more."

2 What's that mean?

3 A. I never responded to that e-mail, so I probably  
4 didn't spend enough time just thinking through what it  
5 really meant to say here. So it's hard for me to  
6 speculate what that really means or what she was trying to  
7 say.

8 Q. Okay. Do you think she was trying to imply in  
9 any way when she says "sell up solutions and not down like  
10 our competitors" that MBS was going to target the GSM  
11 space?

12 MR. WALL: Objection, leading and calls for  
13 speculation.

14 THE WITNESS: One of the things you would see  
15 later in this document is the fact that we -- it's stated  
16 around these articles, some of it captures them, some  
17 others don't, the fact that I was precise about talking  
18 subsidiaries or divisions. And some reporters capture  
19 that, some others didn't capture that. And so --

20 BY MS. BLIZZARD:

21 Q. Okay.

22 A. I guess she forgot I had referred to that. But  
23 I know when there were guys canvassed I told the team we  
24 need to be a lot more pointy around where do we sell.

25 Q. Okay. On the next page, which is Bates number

1 5277, Mr. Wall asked you a number of questions about the  
2 section that says, "Who do you see as your biggest  
3 competitor in this market?" And there's a sentence there  
4 also which says, "In the range of 5,000 employees we see  
5 companies like Oracle to be a head-on competitor."

6 Do you see that?

7 A. Yes.

8 Q. And I believe you told Mr. Wall that this was an  
9 answer that had some sort of larger context?

10 A. Yes.

11 Q. Do you recall that? Can you explain what the  
12 context was that was not picked up in this article?

13 A. It was the same that I referred to before, which  
14 was both Oracle and other companies are looking for growth  
15 opportunities. I mentioned two before, that given they  
16 are the incumbents in the GSM space, there's still  
17 opportunity there. But it is a bit harder.

18 So there's no doubt in my mind that Oracle, SAP  
19 and others, mostly Oracle and SAP I would say, would be  
20 very active trying to come down into the CAS space more  
21 accurately to be able to capture that revenue opportunity.  
22 And I -- I'm sure that's going to happen not only at the  
23 hub of that CAS, but also the spoke of that CAS as much as  
24 they can.

25 So that was the context. The context of us

- 1 competing for that space is more of a context of Oracle
- 2 and SAP coming down to any space where they could have
- 3 certain credibility and us trying to sell more to the
- 4 spoke.

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14 BY MS. BLIZZARD:

15 Q. 166 is next.

16 (Whereupon, an e-mail from Karla Wachter to Erin  
17 Brewer, et al., sent July 21, 2003 was marked as  
18 Exhibit-166 for identification.)

19 Give that to you.

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23 Q. This is an e-mail from Karla Wachter dated  
24 Monday, July 21st, 2003. It begins on Bates number  
25 MS-OPSUB 479, goes through 481.

1 A. All right.

2 Q. Are you familiar with -- with this e-mail?

3 A. Vaguely. I mean, this was really almost a year  
4 ago.

5 Q. Okay. Do you recall this article in the Seattle  
6 Mercury News?

7 A. Vaguely, too.

8 Q. The title of the article I believe is "Microsoft  
9 nipping at Oracle's heels, software giant pursuing  
10 market."

11 Do you see that?

12 A. Yes. Sorry.

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16 Q. At the bottom of the first page it says,  
17 "So far Microsoft has focused on selling  
18 business applications to small and medium-sized  
19 companies defining as businesses with annual sales of  
20 less than 800 million. But lately Microsoft has  
21 become more vocal about going after the larger  
22 enterprises, too, which would put it more directly in  
23 competition with companies like Oracle."

24 And then there's a quote from you that says,

25 "For us it's a prime time to seize the opportunity."

1       What do you think those -- those paragraphs are  
2 trying to convey in this article?

3       A. I think there's going to be a lot of disruption  
4 on -- specifically on the CAS space where I think  
5 PeopleSoft and others aren't quite active, too. In which,  
6 you know, if the transaction -- my assertions doesn't  
7 happen, I think many of these customers, customers will be  
8 thinking twice about what they will do with their  
9 operating systems. So it's a market-created situation in  
10 which I think we had the opportunity to deploy, especially  
11 in the CAS space, the opportunity for some of the MBS  
12 products.

13      Q. Do you think that the opportunity, as you call  
14 it, goes above the CAS space to the GSM space?

15      A. No. Again, and the major qualifier of that is  
16 the fact that we just don't have a product above that  
17 space. I mean, generally speaking, we just really don't  
18 have a product.

19      Q. So when it says, "But lately Microsoft has  
20 become more vocal about going after large enterprises,"  
21 you don't read that to mean the GSM space?

22      A. No, not at all. If you see what -- who is this,  
23 Karla is saying, people tend to generalize about the  
24 enterprise space. And this is exactly the point that  
25 she's calling, we got to do a better job on explaining

1 what CAS means. That's the point she's making, which is

2 totally consistent.

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15 Q. So would it be fair to say that you think people  
16 generalize around enterprise as opposed to focusing on the  
17 CAS space that you're going after?

18 A. Yes. Especially in the early times, you notice  
19 in the e-mail July 21st, 2003. Probably I was one month  
20 on the job, you know. Today I'm very acutely aware of  
21 propounding in any interview the characterization we  
22 are -- and here perhaps I didn't spend enough time with  
23 them really saying, so they just think enterprise is a  
24 very, very general word.

25 What tends to confuse people is to say, hey,

1 these guys are going to go and change the biggest ERP  
2 system in the world, which is totally, totally bad. So  
3 part of the education, moving forward and the effort we're  
4 making is really clarifying what we -- it's not about  
5 changing strategy. I think it's consistent with a year  
6 ago. Now I learn that there was not emphasis enough made  
7 on characterizing the spaces where we are is very  
8 important.

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4 Q. Okay. Let me give you what I'm marking as

5 Government's 167.

6 (Whereupon, an e-mail from Doug Burgum to Ken

7 Mueller, et al., sent November 24, 2003 was marked as

8 Exhibit-167 for identification.)

9 This is an e-mail from Doug Burgum dated Monday,

10 November 24th, 2003. It's forwarding an e-mail from

11 Mr. Ayala dated November 21, 2003. And it's Bates number

12 4560 to 4562.

13 A. Yep.

14 Q. And it -- if you -- if you start on 4561,

15 there's an e-mail from Carlene to you, Mr. Ayala. And she

16 references a call from a Bloomberg reporter, and they're

17 trying to confirm some statements. And in the middle of

18 that she says, "Should we also clarify their figure about

19 our focus on two to 5,000 employees for the midmarket when

20 we've only been saying 1,000 employees? You may have said

21 that to include CAS, but that could start muddying the

22 waters, question mark."

23 Do you see that?

24 A. Yeah.

25 Q. Okay. Did you believe that it would start

1 muddying the waters to say 5,000 employees?

2 A. Maybe. Again, this is -- we got to be more  
3 precise about this scenario we're selling to. That's  
4 something we have to do a better job. One very important,  
5 I think, element of the strategy is we have established  
6 moving forward is truly beyond CAS I see as a very  
7 opportunistic type of move for Microsoft. Very  
8 opportunistic, really got to get in the space. And the  
9 characterization on that is there is nobody with quota on  
10 MBS, we don't count, so --

11 Q. Let me ask you what that means. There's nobody  
12 on quota beyond CAS for MBS. What does that mean?

13 A. It means there's nobody of a sales or partner  
14 people on the GSM space current on MBS quota.

15 Q. And by carrying an MBS quota, what does that  
16 mean?

17 A. I think it's very opportunistic. They are not  
18 actively looking for any of these -- they may be where  
19 when our customer says, "Hey, would you have a solution  
20 for this?" They may say, "Hey, we may have something like  
21 that, but I just don't know." So they may bring some of  
22 the specialist to look at it.

23 And if the spoke scenario that is portrayed with  
24 them may be viable, perhaps we would considerable. But  
25 that's something that I really corrected this year moving

1 forward. So I wanted to be as consistent with strategy as  
2 possible.

3 Q. And when you say there isn't an MBS quota, I  
4 believe you discussed this with Mr. Wall earlier, but  
5 quota is a sales target?

6 A. Sales target which you get paid against.

7 Q. A sales target which you get paid against. And  
8 what you're saying is there's nobody in the GSM who has  
9 any sales target they would get paid against for MBS  
10 products?

11 A. Correct. There is -- all the MBS, all that is  
12 from the midmarket are.

13 Q. But in the midmarket there are MBS sales quotas  
14 against which --

15 A. And CAS.

16 Q. And CAS against which partners would get paid?

17 A. Yeah. And our people get paid, too.

18 Q. And the Microsoft people get paid as well,  
19 because they are also driven by these quotas?

20 A. Yeah.

21 Q. At the very bottom of 4560 and carrying on to  
22 the next page there's a statement, I believe this e-mail's  
23 from Aaron Brewer to you and others which says, "Dina will  
24 get confused about CAS so be sure to reiterate our core  
25 SMB focus segmentation."



1 A. That's perhaps what I was referring to.

2 Q. That's what I was trying to get back to. And it  
3 says, "And then use Orlando's messaging for how we can  
4 scale into corporate divisions, et cetera. Again, this is  
5 not a signal about a move into the enterprise. It is  
6 consistent with our focus. We don't want her causing more  
7 problems for us here. Core focus remains the same."

8 A. That's accurate.

9 Q. And that's accurate. And that is accurate in  
10 that it says you are targeting the CAS, and not the GSM  
11 space?

12 A. Correct.

13 Q. Okay. I only have two more. Think I'm going to  
14 move forward in time, and we go to 168.

15 (Whereupon, an e-mail from Orlando Ayala to Doug  
16 Burgum sent March 14, 2004 was marked as Exhibit-168 for  
17 identification.)

18 And this is an e-mail from you, Mr. Ayala, to  
19 Doug Burgum dated March 14th, 2004. It's Bates number  
20 MS-OPSUB 3097 and continues to 3102.

21 (The witness reviews the exhibit.)

22 A. Yep, I've read this.

23 Q. And I really just want to focus on your comments  
24 at the very top. You say MBS --

25 "MB," I assume that's MBS, "is truly targeting

1 midmarket for the most part. Microsoft will be in  
2 accounts of large number of employees not defined as  
3 midmarket, but in the branch space. The below," that  
4 refers the article below, "did not include my next  
5 comment to that sentence saying that that really puts  
6 us in a different space than Oracle and SAP. We  
7 really no compete for the hubs. That is the place  
8 both Oracle and SAP are. So, therefore, we really do  
9 not compete on much of the core business they drive.  
10 We really have no intention to go for the core ERP or  
11 CRM or SCM system of a corporate account or bigger.  
12 I think we all agree that is not the place where the  
13 dollar signs are anymore."

14 Is all of that still accurate?

15 A. Yeah, that's correct.

16 Q. And then the last part says, "I heard a  
17 Microsoft exec was deposed. If I am the one my talk will  
18 be super consistent with the above, because it is the  
19 truth, exclamation point."

20 A. Yeah.

21 Q. Do you believe your talk here today has been  
22 super consistent with the above?

23 A. I would say it is.

24 Q. Okay. All right. I'm going to let that one  
25 stand and move on to 169.

1           (Whereupon, an e-mail from Andrea Harrison to  
2 Darren Huston, et al., sent March 17, 2004 was marked as  
3 Exhibit-169 for identification.)

4           This is an e-mail from someone named Andrea  
5 Harrison dated Wednesday, March 17th, 2004 to a large  
6 number of people, including something called the US BMO  
7 MBS team. The subject is, "MBS in press regarding  
8 Oracle/PeopleSoft/DOJ." And the Bates number is MS-OPSUB  
9 8484.

10       A. All right.

11       Q. Have you ever seen this before?

12       A. This document specifically, no. I think -- was  
13 I copied? I don't think I was. No, I have not seen it.

14       Q. Are you familiar with communications like this  
15 to the field managers on this topic?

16       A. Absolutely, yeah, I am.

17       Q. And what do you know about that?

18       A. Well, I know that we have been a lot more  
19 consistent now educating our people where to sell our  
20 products under what scenarios. This is a reflection of  
21 the marketing manager in the U.S. subsidiary giving  
22 direction to their teams and not to get confused about  
23 where our products are targeted to. So I'm actually quite  
24 pleased to see this type of e-mail, because that's exactly  
25 where I would expect people to actively remind ourselves

1 where we are.

2 Q. Who's Andrea Harrison?

3 A. She's actually the BMO or business operating  
4 officer. Basically the marketing person in the U.S. for  
5 the MBS product.

6 Q. Okay. I'm going let that one go. And now all I  
7 want to do is ask you a couple of questions on some of  
8 Mr. Wall's exhibits. And this will hopefully be quick.  
9 So if you can turn to 1302.

10 A. And is that the yellow one that has these here?

11 Q. That's correct.

12 A. I'm sorry.

13 MR. RULE: Yes, you are.

14 BY MS. BLIZZARD:

15 Q. And you look at the taxonomy which is on Bates  
16 stamp 19440.

17 A. All right.

18 Q. And the title of this is actually "Target  
19 segments Green V1." Do you know which segments, if any or  
20 all of this taxonomy, are the target segments for Green  
21 version 1?

22 A. No. I mean, Green is so far out that any one  
23 putting that -- I haven't seen this document, by the way.

24 Q. Right.

25 A. Somebody put in that line, I would laugh at it.

1 Q. Okay.

2 A. I don't know what people intended with putting  
3 the Green V1 thing there, but --

4 Q. Okay. Do you -- do you know when the release  
5 date is for Green V1?

6 A. No, I don't know.

7 Q. But your belief is that it's quite far out?

8 A. Way far out.

9 Q. Way far out?

10 A. It's highly dependent of Longhorn, which is the  
11 next version of Windows. And I think is way far out. My  
12 estimates, which anyone -- this is not -- this is not an  
13 official position for the company, but I've been in this  
14 company for ten years, 13 years. I think Green's probably  
15 in the rest of 2008 or beyond.

16 Q. 2008 or beyond? At the bottom of this chart it  
17 says, "Sales process and channel." Do you see that?

18 A. Yes.

19 Q. The very last row. And under "Corporate account  
20 space" it says, "Direct sales process with evolving SIs."

21 For MBS products, do you intend to go after the  
22 corporate account space with a direct sales process?

23 A. No.

24 Q. So that --

25 A. Again, we should define direct. That does

1 account of the challenge. If direct is meant to mean for  
2 I'm going to hire 20,000 people to go and sell these  
3 products directly to customers, absolutely not.

4 Q. If direct means selling it in the same way  
5 Oracle, PeopleSoft and SAP sell and where they, quote,  
6 "take the paper" is that what you plan to do?

7 A. It's not planned to be the same way that Oracle,  
8 SAP or PeopleSoft. If we have the product, but it's not  
9 the same way. Direct means more touch to customer, I  
10 think is what this implies is, you know, I think our  
11 people who need to participate, talk more to the customer.  
12 But it's still the partner is the leading selling  
13 resource.

14 Q. Right. Because is it correct as you said  
15 earlier in Microsoft sales something like 98 percent of  
16 your sales go through a partner anyway?

17 A. Correct, correct.

18 Q. All right. Let's look at 1304. And if you can  
19 look at the e-mail from Graham Clark dated Friday, January  
20 31, 2003.

21 A. Correct.

22 Q. That's before you took your current position;  
23 isn't that correct?

24 A. February 3, 2003; correct.

25 Q. Okay. And the one below it, January 31?

1 A. January 31, yes.

2 Q. Second paragraph it says, "I don't think we can  
3 fix this by defining account size where MBS will and won't  
4 play. MBS will be sold into CAS and also into divisions  
5 and subsidiaries of all, capital letters, enterprise  
6 customers."

7 Would you say that that is currently an accurate  
8 statement of the target markets for MBS?

9 A. I totally disagree with the "all" word. It's  
10 not true.

11 Q. And then on the next page there's also an e-mail  
12 Friday, January 31, 2003, someone named Matt Bender is  
13 saying to Kirsten describing some sort of deal. In the  
14 middle there it says,

15 "According to PeopleSoft the customer was told  
16 by a, quote, 'Microsoft executive,' I'm trying to  
17 find out who, that MBS would not stay in the  
18 small/medium business space, and that they wanted to  
19 win H&P as a flagship customer to prove that MBS was  
20 enterprise capable and that it could compete with  
21 PeopleSoft, JD Edwards, et cetera."

22 Do you agree with that statement?

23 A. No.

24 Q. Do you think that would be consistent with the  
25 direction you've given to your sales staff to make

1 statements like that?

2 A. Absolutely not.

3 Q. Is that the type of statement that you believe  
4 got you into the situation of your eyes being bigger than  
5 your stomach, as we were discussing earlier?

6 A. Likely, you know, is people portraying what the  
7 products can do or cannot do. It's just a very important  
8 part of the strategy.

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11 Q. Okay. I have one more, which I'm going to mark  
12 as 170. Is that what I'm on?

13 (Whereupon, a document entitled Microsoft  
14 Business Solutions Q&A was marked as Exhibit-170 for  
15 identification.)

16 And you're welcome to look through this. I  
17 think my questions are going to be confined to the first  
18 page, just so you know.

19 (The witness reviews the exhibit.)

20 Let me state for the record this is titled  
21 "Microsoft Business Solutions Q and A." It says,  
22 "Prepared for Convergence 2004" in the top right. And the  
23 Bates numbers are MS-OPSUB 4411 to 4446.

24 A. All right.

25 Q. I believe you already said you -- well, let me

1 ask. Did you attend Convergence 2004?

2 A. I did.

3 Q. And what is Convergence?

4 A. Convergence is the prime customer event for  
5 Microsoft Business Solutions. Partners happen to attend,  
6 too.

7 Q. And do you recall seeing this document before?

8 A. Yeah, I think I read this document.

9 Q. Is it something that would have been prepared  
10 for you in sort of as part of your preparation for  
11 Convergence?

12 A. For all the executives attending.

13 Q. For all the --

14 A. All the executives attending.

15 Q. All the executives attending. If you turn to  
16 the first page where it says, "Top executive Q and A."  
17 The third question down says, "How does Microsoft Business  
18 Solutions define its target market?" And it says,

19 "Using Microsoft internal customer segmentation  
20 taxonomy Microsoft Business Solutions targets the  
21 core small and mid-size business segments and  
22 divisions of large organizations. Microsoft defines  
23 core small business as having one to 49 employees,  
24 mid-size businesses as having 50 to a thousand  
25 employees, and divisions of large organizations of

1     having 1,000 to 5,000 employees. In terms of  
2     revenue, Microsoft Business Solutions targets  
3     customers with 1 million to 1 billion in annual  
4     revenue."

5         Do you think that's accurate?

6     A. Yeah, it's accurate.

7     Q. Do you think it's accurate with the  
8     clarifications that we've discussed today about the  
9     appropriate types of divisions of large organizations that  
10    would be good fits for the MBS products?

11    A. That would be more precise.

12    Q. Do you think that MBS products can fit all  
13    divisions of large organizations?

14    A. I don't think so.

15    Q. Do you think MBS products are good fit for all  
16    organizations up to a billion in annual revenue?

17    A. I don't think so.

18    Q. The next question says, "Is Microsoft Business  
19    Solutions planning to take its products up market into the  
20    enterprise market?" And the answer says,

21         "To move to the large enterprise market is not a  
22    natural extension of Microsoft Business Solution's  
23    current business model. It would mean creating  
24    different products, different price points, different  
25    sales channels and building an infrastructure around

1     that business."

2           Do you think that's accurate?

3     A.   Well said.

4     Q.   Well said? The next sentence says, "Rather than

5   pushing to move up into the enterprise space, we are

6   looking to move out into a broader range of global markets

7   and industries within the small and mid-sized businesses

8   and divisions of large organizations."

9     A.   That's very accurate. I think it's a very good

10  characterization of the strategy as it stands.

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12       Q. Let me see if I can sort of summarize where we  
13 are after the discussion on a few of these points. My  
14 understanding of your testimony is Microsoft does not have  
15 any present intention of targeting the core centralized  
16 ERP system that a GSM customer might implement; right?

17       A. Correct.

18       Q. Okay. And that then is sort of taking you out  
19 of the picture, if you will, for those of the top 1600  
20 corporations in the world who choose to adopt a  
21 centralized hub-type ERP system.

22             And I'm not saying it doesn't take you out of  
23 others, but at least it takes you out of that group;  
24 right?

25       A. At the center, yeah, at the hub.

1 Q. At the center. But as we have discussed, these  
2 companies do have an option, if they want to go that  
3 route, to meet their IT needs with spoke systems rather  
4 than a centralized hub; right?

5 A. Usually they don't. But some of them may.

6 Q. Sometimes they do; right?

7 A. Uh-huh.

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10 Q. Right. And but you have been involved on many,  
11 many occasions in the process of selling software,  
12 Microsoft software, and Microsoft products to GSM  
13 customers, even if those sales were consummated through  
14 partners; correct?

15 A. Define for me process.

16 Q. The sales process, and whether it's in a general  
17 level of marketing or talking -- evangelizing, talking to  
18 customers about your products.

19 A. I talk to the customers about our products,  
20 sure.

21 Q. So you're not ignorant about the dynamics of  
22 selling business software to GSM customers, are you, sir?

23 A. I know some about it.

24 Q. In fact, you were the head of worldwide sales  
25 for Microsoft for many years, were you not?

1 A. Correct.

2 Q. Now, Mr. Ayala, do you have any particular  
3 expertise in knowing when it is that a large enterprise  
4 may or may not have a viable option of implementing a  
5 spoke solution?

6 A. Not personally, but we have technical people who  
7 do that.

8 Q. But personally don't know when that would be  
9 technically feasible and when it would not be; correct?

10 A. It would be I think impossible for anyone to  
11 know precisely that.

12 Q. It has to be assessed on a case-by-case basis;  
13 correct?

14 A. People should look into the details of customer  
15 requirements.

16 Q. Now, Chanel, you mentioned Chanel earlier. Do  
17 you know how big a company Chanel is?

18 A. Not really. Not precisely.

19 Q. Do you know they're about 900 million dollars in  
20 revenues, did you know that?

21 A. Now I know.

22 Q. Okay. That sound about right to you from what  
23 you know of the company?

24 A. Maybe. I haven't seen the --

25 Q. Okay.



1 A. -- their numbers.

2 Q. Now, Chanel was a company, as I understand your  
3 testimony, that decided to meet their needs through a  
4 spoke solution; right?

5 A. Correct.

6 Q. Okay. And if I understand your testimony  
7 correctly, that solution worked very well, and they were  
8 happy with it, with the exception of the issue that you  
9 had in Japan; right?

10 MS. BLIZZARD: Objection, misstates the  
11 testimony.

12 THE WITNESS: I haven't heard any complaints  
13 from them, so -- that they like the solution.

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10 Q. Now, with reference to Exhibit 170 again, you  
11 were talking about the -- in terms of revenue Microsoft  
12 Business Solutions targets customers with 1 million to 1  
13 billion in annual revenue.

14 You see that?

15 A. Yep.

16 Q. Okay. Now, with respect to the -- to the 1  
17 billion in annual revenue, that -- given your emphasis on  
18 the spoke solution, that's -- that figure properly relates  
19 to the division or the branch or whatever it is that you  
20 are selling your solution to; correct?

21 A. No, I would say it is the whole company.

22 Q. But you do, in fact, have -- you have customers  
23 that are much larger than 1 billion dollars that have  
24 implemented spoke solutions on Microsoft Business Solution  
25 software, don't you, sir?

① A. Maybe. I'm not sure.

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5 Q. I meant to finish out one part of the Chanel

6 story. So what did Chanel do in Japan?

7 A. What about?

8 Q. What did they do? If you couldn't serve their

9 needs, what did they do?

10 A. I think they have -- they are happy with the

11 strategy of using Axapta. Actually, I was very pleased

12 that as a result of serving the customer well and

13 delivering value, and they would work with us to

14 accommodate the time frame.

15 Q. So they didn't run off to SAP or Oracle?

16 A. They didn't.

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